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V

ANNOUNCEMENT REGARDING THE APPOINTMENT OF THE CHAIRMAN
OF THE SELECT COMMITTEE ON THE MADRAS HINDU RELIGIOUS
ENDOWMENTS BILL, 1922.

The hon. the PRESIDENT :—“ I have to announce that I have appointed the hon. the Raja of Panagal to be the Chairman of the Select Committee on the Madras Hindu Religious Endowments Bill, 1922.”

VI

A BILL TO PROVIDE FOR THE REORGANIZATION OF THE MADRAS
UNIVERSITY, 1922.

The hon. Rao Bahadur A. P. PATRO :—“ I beg to present the report * of the Select Committee on the Bill to provide for the reorganization of the Madras University.”

VII

THE MADRAS SURVEY AND BOUNDARIES BILL, 1921—cont.

Clause 19—cont.

The House resumed consideration of clause 19 of the Madras Survey and Boundaries Bill.

Mr. C. V. S. NARASIMHA RAJU :—“ Mr. President, yesterday I was speaking about the apportionment. If I remember right, the hon. the Revenue Member said that by the provision in the clause about apportionment, a portion of the cost might be borne by the Government under the rules that were to be framed. I do not think that the provision, as it stands now, allows such a thing; for, it clearly mentions how the amount is to be apportioned, among whom it is to be apportioned, etc. It clearly states that the cost is to be apportioned among the persons who have any interest in the estate, portion of the estate or boundary of which the survey has been ordered. It does not make any mention that it can be apportioned to the Government as well. Of course, in clause 15, the word ‘apportion’ has been used but among whom the cost is to be apportioned has not been stated. Therefore, there is latitude given for apportioning the cost even as regards the Government. But now, as the clause stands, a possibility does exist. Therefore the interpretation intended to be put by the hon. the Revenue Member is not warranted by the words of the clause. The word ‘apportioned’ is used there, I think, having bearing to the provisions of the Irrigation Cess Act. Under the Irrigation Cess Act, as amended, it is clear that the Government has the power of apportioning, as between the zamindar and the ryot, how the irrigation cess has to be paid. I hope the rules will be framed analogous to those of the Irrigation Cess Act. As a matter of fact, whenever survey is effected by the Government for the better management of irrigation cess, the whole cost of it is borne by the Government. Now, the whole thing is thrown upon the zamindar or the ryot, and no portion of it upon the Government. It is a clear injustice from the standpoint of the zamindar or the ryot. Therefore the whole reference to clause (b) (i) in this section is clearly unjust and has to be deleted.”

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Clause 19—cont.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"Sir, I entirely support the principle of the amendment of my hon. friend, 11-45 a.m.

Mr. Ankinedu Prasad Bahadur. The question is this. Up to the present day, taking the districts with which I am familiar, the question of the collection of the irrigation cess in the zamindari areas has been a matter of a certain amount of controversy. For some years, the Government employed revenue inspectors to measure the extent of irrigation with Government water in the zamindari areas. The Government found that in some years there were considerable frauds practised by the subordinate officials. In order to prevent these frauds, the Government ordered a survey of these areas, and the surveys have been conducted, and the costs thereof have been entirely borne by the Government from the provincial funds, the reason being that it was a legitimate expenditure of land revenue collection. So that hon. Members will see that neither the zamindar nor the ryot contributed anything for the water-cess survey which was mainly intended for the purpose of land revenue collection and not for the benefit of the zamindar or the ryot. Hon. Members can very well apprehend that by the next session a portion of the survey charges may be sought by the Government to be levied from the ryots also. It is clear that the ryot and the zamindar may be saddled, if the provision is allowed to exist, with the costs of the survey which up to the present moment come entirely from the provincial revenues. On the injustice of the proposal I am absolutely clear, and this is really a deliberate attempt on the part of my hon. friend to impose a liability on persons who have not paid hitherto a single pie for these surveys as they were mainly intended for Government purposes. The best way of carrying out this intention will be to *strike out* the words:

and such portion of the cost of the survey under clause (b) (i) of the section as the Local Government may prescribe

and leave the rest of the clause as it is. That will best carry out the intention underlying this amendment and will also be in accordance with the other amendment standing against the name of my hon. friend, Sri Mekha Apparao Bahadur, to omit the words '*and such portion of the cost of the survey under clause (b) (i) of the section as the Local Government may prescribe.*' That is in fact the request made by the amendment of my hon. friend, Mr. Ankinedu Prasad Bahadur. I give my support to it not necessarily for the reasons adduced by the hon. Members representing the zamindars in this House but for this reason, viz., that the survey is entirely a Government measure intended to facilitate the levy of irrigation cess and that up to now neither the zamindar nor the ryots have been paying towards the costs of the survey. I support the amendment and I suggest that the idea may be carried out by the omission of the words mentioned above."

The RAJA OF RAMNAD:—"I support this amendment. I find, Sir, from the proceedings of yesterday that the hon. the Revenue Member said that the zamindar should pay for the costs of the survey as he derived some benefit from it even when the survey was made for the benefit of the Government. But when the survey is made at the request of the zamindar, I do not find a similar provision requiring the Government to pay a portion of the costs though they also derive considerable benefit from the survey. I think that in a matter like this there should be reciprocity. Further, as one who has

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[The Raja of Ramnad]

Clause 19—cont.

had bitter experience of the matter, I can safely assert that the disadvantages to the zamindar from the survey far outweigh the resulting benefits. As a matter of fact, private lands belonging to the zamindars are included in the lands of the ryot; and, when objection is taken, we are asked to wait till the final stage when under section 11 or so we are required to file a land complaint. So we lose our rights over the land and the land is registered in the name of the ryot. The zamindar is required to file a land complaint and prove that the land was his. We have been asked to do so at considerable inconvenience and therefore I may assure the hon. the Revenue Member that even though the zamindar gets some benefits the disadvantages that result from the survey are considerable. But in a case like this, where the survey is made for the purpose of levying the irrigation cess, I think, the Government ought to bear the entire cost, and not ask for any contribution from the zamindar, unless it be that the Government are equally prepared to contribute towards the cost, when the survey is made at the instance of the proprietor. This amendment is very opportune inasmuch as the zamindars are threatened with an Irrigation Bill. I heartily support the amendment."

The hon. Sir CHARLES TODHUNTER :—" Sir, as I had something to do with the origin of the sub-clause in question, I should like to say a few words at this stage. I should like to start with the proposition that no rational estate management, especially of an estate involving valuable irrigated land, is possible without a survey. I would urge that as an axiom. A zamindar who has valuable irrigated land and does not have it surveyed is not doing his duty to his estate or to his tenants. I have nothing to do with the question whether a particular zamindar is satisfied with the way in which a particular survey is carried out. I am dealing with the question of the proper estate management of valuable irrigated land owned by a zamindar. The only question is whether the zamindar shall be in a position to compel the general taxpayer to pay towards the cost of the survey. Here is a zamindar whose land has been enhanced in value because of the irrigation thereon, and, instead of his paying something more, he is going to compel the general taxpayer—for, that is the same thing as compelling the Government—to pay the cost of the survey. He compels the taxpayer to survey his land in order that the Government may levy the very moderate water-rate that is imposed upon it, and he is thereby enabled to secure the making of this very costly survey, which otherwise he would have to pay for himself, in order to regulate the relations between himself and his tenants. He fails to do his duty, but gets a big gift in the shape of the water and he also gets the benefit of a survey at the expense of the general taxpayer. That is the claim underlying this amendment and I hope the House as representing the taxpayer will repudiate it unanimously."

Rao Bahadur T. BALAJI RAO NAYUDU :—" Sir, I beg to say, with reference to the hon. the Finance Member's speech, that the zamindar gets no benefit at all as a result of the survey. The land assessment remains as it was before, but the water-tax is increased. The zamindar cannot, on account of the increase, enhance the rent that he charges from the ryot. So, practically, the zamindar gets no benefit. I do not think that the survey made for purposes of levying irrigation cess is any justification for the Government to levy the charges from the zamindar. As regards the proposal that when the survey

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Clause 19—cont.

is made at the instance of the zamindar or one-fourth of the ryots of a particular estate, a portion of the costs must be paid by the Government, the question does not arise. Where the Government have undertaken to pay the costs of the survey, I think, in practice, in none of the kinds of surveys do the Government pay. The only few kinds of survey which are known to us in these parts are the survey in cases of disputes between the zamindar and the ryots and the water-tax survey. The third kind is not practically given effect to in these districts. If item 2 is removed, I think it will be a step in the right direction. I therefore support the amendment."

Diwan Bahadur M. KRISHNAN NAYAR :—"Sir, I am in sympathy with this amendment. To my mind, there is no reason why the zamindar should be made to pay for the costs of the survey which is undertaken by Government for the levy of the irrigation cess. The hon. the Revenue Member said yesterday that after the survey was undertaken the zamindar might derive a benefit. He concluded therefore that it was reasonable that the zamindar should be made to pay the cost of it. I submit that the reasoning is not convincing. There is no reason why for a possible future benefit which the zamindar is not willing to have and which is sought to be enforced upon him, he should be made to pay immediately the cost of the survey undertaken under sub-sections (a) and (b). It seems to me that the position taken by this amendment is a reasonable one, and I think it should be supported by this House. My hon. friend, Sir Charles Todhunter, said that this amendment would throw the additional burden upon the general taxpayer and added that the representatives of the taxpayers should see that this additional burden did not fall upon them. We should look at the question from the point of view of justice and it seems to me that, even if it becomes necessary that the general taxpayer should pay, it should be distributed over the whole Presidency. I think it is reasonable that the person, who, at best, derives a possible benefit on a future occasion, should not be made to pay the costs."

Dr. P. SUBBARAYAN :—"I rise to support the amendment. The hon. the Finance Member said that it was the duty of the proprietor to have his estate surveyed for the benefit of himself and of his tenants. I demur to the proposition for the simple reason that the Government have at their disposal the whole survey staff to keep the records and everything connected with the survey of lands in order. If any record or plan is missing, the proprietor cannot himself make the plan but will have to apply to the Land Records Tahsildar who gets the plan ready or if any survey stone is missing places the stone in its right place and recovers the cost from the proprietor who, in turn, has to recover it from the ryot. The benefits which accrue to the zamindar or the ryot from the survey are not so very much to be glorified as the hon. the Finance Member did. I have personally experienced many difficulties and I know of many instances where, in spite of the survey, much trouble is felt in locating the boundary stones. The hon. the Finance Member then said that, for the purpose of levying the irrigation cess, the Government have a right to have the estate surveyed. In the first place, it is admitted by many decisions of the High Court, as well as of the Privy Council, that all water running through an estate belongs to the estate, and now the Government very likely want to

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[Dr. P. Subbarayan]

Clause 19—cont.

get behind the decision by means of a clause like this. Very likely the hon. the Revenue Member will have the support of the hon. the Law Member who has a similar provision in his Irrigation Bill which was hanging over our head but which fortunately has been postponed for the time being. The sword, however, is still hanging over our head and may fall on us the next session probably.

“The amendment suggested by my hon. friend, the Raja of Chelapalli, is very reasonable. As the Government have all the benefit of the survey of an estate for the purpose of levying the irrigation cess, the amendment should be accepted. All that talk of money coming from the general tax-payer is mere chimera. No doubt the Government get money from the general tax-payer, and, if the Government are going to have any benefit, the general tax-payer is going to get the benefit also. In such a case the general tax-payer should pay as he benefits by the Government levying the irrigation cess. If the Government are not prepared to pay for such a survey, I think it will be better for the hon. the Revenue Member to delete clause *b* (ii) from this Bill and leave it as it was before. They could have power to survey the estate even for the purpose of levying the irrigation cess by stating the reasons for it. I hope the House will not be carried away by the peroration of the hon. the Finance Member but will accept the amendment of my hon. friend.”

MR. S. ARPUDASWAMI UDAYAR:—“Sir, the point raised by my hon. friend, the Finance Member, has not been well answered. I do not know why they are so very eager to release the zamindars and make the cost fall upon the general tax-payer. I know that the usual practice is for the zamindars to share it with them. I should certainly oppose the amendment.”

RAO BAHADUR A. S. KRISHNA RAO PANTULU:—“Sir, the apprehensions of my hon. friend, Dr. Subbarayan, have proved true, for the previous speaker has been carried away by the remarks of the hon. the Finance Member. I believe the tax-payer is very anxious that there should be no unnecessary burden added. But in this particular case, can any one contend that the zamindar should be called upon to pay the cost of the survey when the survey is undertaken not at his instance but ‘for the better or more convenient assessment or levy of irrigation cess’? If that is so, then I submit there is no ground for that position. And the possible advantage the zamindar may derive is not a circumstance which should be taken into account. I therefore support the amendment.”

MR. S. SOMASUNDARAM PILLAI:—“Mr. President, it is well known that whoever derives the benefit of a particular action must pay for the benefit. Now, the question is whether the Government derive the benefit or whether the zamindar derives the benefit. In clause *b* (i) it is said:

Without such application whenever, in the opinion of the local Government, such survey is necessary for the better or more convenient assessment or levy of irrigation cess, etc.

“The question is, is it convenient for the zamindar or for the Government? If it is for the zamindar, he must be compelled to pay, and if it is for the Government, certainly they must pay for it. If the land is surveyed on the application of the zamindar, he must be asked to pay, and if in the absence

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Clause 19—cont.

of an application the Government think there is a necessity for survey for the purpose of better or more convenient assessment, for whose benefit is it done? Certainly it is for the benefit of the Government and I do not see any reason why they should not pay for it inasmuch as the zamindar is in no way benefited by it. Such being the case, there is no rhyme or reason in proposing that these expenses should be paid by the zamindar. Of course, each one tries to throw the burden on the other; the Government wish to put it on the zamindar and the zamindar in his turn asks the Government to pay. But the balance hangs heavily against the Government in this case, and Government must pay in all justice. With these few words, I feel bound to support the amendment."

Rao Bahadur K. GOPALAKRISHNAYYA :—"I rise to support the amendment moved by my hon. friend, the Raja of Chelapalli. This clause lays an obligation on the landlord that he should pay all the expenses incurred in connexion with the survey, including the expenses of the notification in the Gazette, if the Government thinks that a survey is necessary and that it will be beneficial to the landlord. Let us examine the circumstances under which the Government may be under the impression that the so-called survey will be useful and beneficial to the zamindar. Even for the purpose of irrigation cess, it is not a very difficult matter; for there is the survey party, always ready to do some survey business. If the survey marks are disturbed, then we have the penalising provisions in the Penal Code under which any one should be afraid to touch these survey marks. Only yesterday, we made a provision that not only the *pattadar* but also the owner or occupier should be under an obligation to maintain the survey mark. When there are so many obligations upon the owner and occupier, it cannot be said that they will not be in good order. And I do not see any reason why the Government should apprehend any other difficulty necessitating the survey of the land except on its own initiative. In these circumstances it will be a great hardship on the landlord to bear this burden of the survey expenses for purposes which are necessary only for the benefit of the Government. And, as such, Government should bear the expenses because the survey is intended to be started on its own initiative. It is only just that the landholder should under the circumstances be disburdened of this additional expense."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"Sir, I was somewhat surprised at two of the members of the Select Committee, who sat round me for the purpose of discussing the provisions of this Bill, and who signed the report of the committee unanimously without any minute of dissent, expressing to-day their opinion against it; at any rate, so far as the report is concerned. I fully recognize that my hon. friend, Dr. Subbarayan, made a feeble attempt in the Select Committee to try and introduce some improvement in the existing Bill. But, if I remember things aright, I think, I was able to convince him of the indirect benefit . . .

Dr. P. SUBBARAYAN :—"I do not think that the hon. the Revenue Member succeeded in convincing me. I stood alone, and I then thought there was no use of breaking my head against a stone wall, and I was content to leave things as they were. Now that there is an amendment tabled, I am expressing my views on the matter."

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Clause 19—cont.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"At any rate, I assumed that I was able to convince him inasmuch as I found that he had signed the report. Probably, when he now tells me that he found himself almost against a stone-wall, and that stone-wall on that occasion being myself, I do not know how the value then attached and the difficulties then experienced have now disappeared."

Dr. P. SUBBARAYAN:—"As a point of personal explanation I may say that Mr. Balaji Rao Nayudu and Mr. Krishnan Nayar were among the stone-wall; but now I find that they have fallen off like bricks and they are not the stones that I took them to be" (laughter).

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"Sir, I can only emphasise what I said yesterday, and I want the zamindars to realize that they should not put any burden on the general tax-payer more than what they are willing to bear."

"In the case of the ryotwari lands we conduct the surveys, in the first place for the purpose of determining the extent of a particular holding; we do it also for the purpose of ascertaining whether the assessment that is being paid into the public coffers is correct, or whether it should be enhanced in proportion to the extent of the holding and other circumstances which might have arisen. Therefore, the Government get a benefit from such survey. But the tenant also gets the benefit of the knowledge that his holding is of a particular extent, so as to prevent the adjacent landholders from encroaching on his own land which it will be perfectly easy for them to do if the ryot has not any definite idea as to the metes and bounds of his own particular holding. In these cases also, it is true that the Government initiate the proposal for conducting the survey; but I shall contend, and I shall continue to contend, that while the Government does derive a benefit from such survey, I cannot persuade myself to believe that the zamindar in turn (or the proprietor) does not get any benefit at all. I think I have enumerated a few of the benefits which accrue to the proprietor as well, and I do not think that argument has been logically contradicted. In the case of ryotwari landholders, all that makes the ryotwari holder responsible for is the cost of the stone and of labour. As I said yesterday, when the Government makes rules for the purpose of determining the proportion which should be borne by the Government and the proprietor, the Government will certainly keep in mind the merits of the case, and determine what reasonable proportion of expenditure incurred in connexion with the survey conducted under (b) (i), should be borne by themselves and what by the proprietor keeping in mind the relative advantages to be derived by both."

"Then, Sir, I think hon. Members, are not aware of the fact that, even in Bengal, where there is the benefit of the permanent settlement, the Government now and again order the survey of particular holdings with a view to keep accurate and correct records of them. Even there, the cost of the survey is shared in certain proportion between the Government and the proprietors. This provision, therefore, in clause 19, whereby Government wish to take power to levy a proportionate cost of expenditure incurred, is nothing new; nor is it the creation of the imagination of the Madras Government alone. Then, Sir, my hon. colleague,

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Clause 19—cont.

the Finance Member, who is certainly the vigilant guardian of the interests of the general tax-payer, has clearly pointed out that it will be rather hard for this House to hold that the tax-payer should be made responsible for things from which he does not derive a direct benefit. To that an answer was made that, inasmuch as Government derive their water-rate by the process of the survey which is conducted under clause 17 (1), the general tax-payer should be content with that result and regard the expenditure of money as productive. But, as I have already stated, Sir, if we are going to regard this as a sufficient justification for the expenditure of money, and are, therefore, going to exempt the proprietors, in general, from sharing a portion of that expenditure themselves, I am not quite sure whether the general tax-payer may not in return ask why he should not be exempted likewise, in future, from shouldering the responsibility of bearing a portion of the expenditure of the survey as he has been doing until now, on the plea that the survey invariably results in adding to the general revenues of the province. If that is the argument which is going to be adopted in this House for exempting the proprietors from the payment of any share of the cost of the survey, I am afraid the general tax-payer also will be entitled to utilize that argument in his own favour. Then the result will be that every survey, which is conducted in this province, will have to be wholly conducted at the expense of the general tax-payer, merely on the ground that every survey results in some increase of revenue to him. Viewed from any standpoint, I fail to see what justification there is to accept the amendment which I see the House—in a large majority I think—seems to be in favour of. So far as the attitude of the Government is concerned, I think I must only say, Sir, that Government will be glad if clause 19, as drafted by them, is accepted by the House. Of course, I have no reason to force my views on the House; they are at liberty to vote as they like; but all the same I wish to remind them of the fact that they should keep the general tax-payer more largely in their mind than a particular class of the tax-payer."

Amendment No. 49 was then put and declared carried.

The following amendments were not moved :—

Mr. M. SURYANARAYANA PANTULU :—

50. *Delete the words ' and such portion of the cost of the survey under clause (b) (i) of the section as the Local Government may prescribe '.*

Sri M. V. APPARAO Bahadur :—

51. *Omit the words ' and such portion of the cost of the survey under clause (b) (i) of the section as the Local Government may prescribe '.*

Sri M. V. APPARAO Bahadur :—

52. *For the words ' recoverable from such persons ' in lines 51 and 52 substitute the words ' recoverable directly from such persons '.*

Amendment No. 53.

Mr. M. SURYANARAYANA PANTULU :—" Sir, the amendment standing against my name reads as follows :—

53. *Delete the words ' unless otherwise prescribed by the law for the time being in force '.*

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Clause 19—cont.

“The original clause 19, as it stands, has the words
unless otherwise prescribed by any law for the time being in force.

“The amendment of S. R. Y. Ankinedu Prasad Bahadur also has the words
unless otherwise prescribed by any law for the time being in force.

“There is no law already in force in regard to this matter and if in future any law is going to be made, I really do not see any reason why.”

Rao Bahadur K. GOPALAKRISHNAYYA :—“I really do not see, Sir, how the amendment is in order, as the idea contained in the original clause is also contained in the new clause which we have just now passed.”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“Clause 19 of the Bill has been replaced by a new clause which has just been passed by the Council. The words

unless otherwise prescribed by any law for the time being in force

“which form amendment No. 53, are part of the original clause which has been replaced by this new clause. Therefore, it seems to me, Sir, that this amendment cannot be moved : it is an amendment to the original clause which has been replaced by the new clause.”

Mr. M. Suryanarayana withdrew his amendment and the new clause 19 was declared to stand part of the Bill.

Clause 20.

The following amendments were not moved :—

Sub-clause (1).

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—

54. For the words ‘no tenant under a proprietor’ in line 11, substitute the words ‘no ryot in an estate’.

Sub-clause (3).

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—

55. For the words ‘tenants of a proprietor’, substitute the words ‘ryots in an estate’.

Amendment No. 56.

Sri M. V. APPARAO Bahadur :—“Mr. President, the amendment standing against my name is as follows :—

56. For all the words beginning with ‘shall be recoverable’ in line 21 substitute the words ‘shall be recoverable directly by the Government from the tenants.’

“Sir, in the clause there are three parties concerned—first, the zamindar; second, the zamindari tenant; and third, the Government. So far as the zamindars are concerned, I submit, Sir, that they can have no objection to pay their portion of the cost. But when it comes to a question of recovering it from the tenants, the zamindars cannot do it as easily as the Government. Therefore, Sir, if the costs are to be collected through the zamindars, there is sure to be a lot of litigation between the zamindars and the tenants. Government have already got enough of establishment for collecting kist, etc., and they are collecting in this way even the present irrigation cess. So, I submit, Sir, that this amendment may be accepted.”

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Clause 20—cont.

The ZAMINDAR OF MANDASA :—“ Sir, when a survey is carried on, it is not fair that the whole of the cost should first be realized from the zamindar alone, and that the zamindar should be left to collect detailed charges from the ryots. Most often we are driven to law courts to realize these amounts from the ryots. It is unnecessary for me to say that the ryots under the Estates Land Act have gone so far as to deny even the zamindar's authority in the matter. In such a state of things, it is unfair that the whole cost should be realized from the zamindar, and the zamindar be driven to the necessity of going to law courts to realize the amounts from the ryots. Government has the machinery to make the collections directly from the ryots, and, as arrears of land revenue, these expenses can be collected very easily through the Revenue department. It will be very difficult for us to collect these amounts. If they do not give, we shall have to go to the law courts. The weapon of Government is sharper than that of the Estates Land Act, which is a blunt one. The deputy tahsildar can go and distrain the property. So, it is very easy for the Government to collect the charges. Now that the permanent settlement is going on in my estate, the Government are able to collect from my ryots very easily. If they do not pay us, we shall have to go to law courts, and there will be the delay, the question of limitation, and all that. So I second this amendment.”

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—“ Sir, I am afraid the hon. the mover of this amendment has not realized the legal difficulties which the acceptance of this amendment will involve. He assumes, I suppose, that a zamindari tenant is as well a ryotwari tenant. But I wish to repeat that the zamindari ryot is no more than a zamindari ryot, and that the collections which will be made from the zamindari ryot will be made only under the provisions of the Estates Land Act. He is not at all governed by the laws which govern the ryotwari ryot. Inasmuch as he does not happen to be a tenant under the Government, Government cannot recover from him anything directly. It is the proprietor who is responsible to the Government for the payment of certain sums of money. Government has in the first instance to collect it from the proprietor, and, inasmuch as the law gives power to the proprietor to recover either the whole or a portion of that expenditure from his tenant, it is up to the zamindar to claim and recover that sum from him through certain processes that have been specifically laid down in the Estates Land Act. The procedure laid down in the Estates Land Act is, I believe, well known to every proprietor in this House. I am not quite sure whether it is the intention of the hon. the mover of this amendment that the Government, whenever they want to collect a sum of eight annas from a particular tenant in the zamindari on account of survey, should at once send an application to the Revenue Divisional Officer and request him to collect the money on behalf of the Government. The law that will be applicable to sums due by the ryots in the ryotwari lands is the Revenue Recovery Act. I think the hon. mover does not in the least contemplate that the Revenue Recovery Act can have the least application in this case; for the Revenue Recovery Act will be applicable only to ryotwari tenants and not to the proprietary tenants. Thus, it will be seen, Sir, that it will not at all be possible for the Government to recover this money from the proprietary tenants.

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Clause 20—cont.

I think I heard the hon. the Raja of Mandasa say that, in connexion with the survey and settlement of lands that is now taking place in his zamindari, Government are collecting the money from the ryots directly. I may at once tell him, Sir, that it cannot be so under the Estates Land Act. I am therefore unable, Sir, to accept this amendment."

Mr. B. MUNISWAMI NAYUDU :—"When an application is made in pursuance of clause 17 (a), the survey is undertaken at the instance of the proprietor and not at the instance of the tenant. When the proprietor chooses to burden the ryot with the survey, Government has to charge the proprietor and it is improper for the Government to go against the tenant. This is a point which the mover of the amendment has not taken notice of. The proprietor wants the survey. Government undertakes it. The survey is made. Government has to be reimbursed. The ryot has absolutely no voice in the matter except to submit. In these circumstances, Sir, I do not see any fairness at all in saying that the ryot should pay in the first instance. Moreover, the ryot should welcome the change in the amendment for another reason. Whether he pays to the proprietor or not, the amount will be the same anywhere; but there is an advantage when the ryot deals direct with the Government. The Government will separately collect the money, whereas the proprietor will include it in the general amount. Then, Sir, it has been said by the Revenue Member that the Revenue Recovery Act does not apply to ryots in estates. May I point out that section 21 says that repairs can be made in an estate, and that if the survey marks are not maintained, the Government may do it and recover the cost from the tenants though it was an arrear of land revenue? Similarly, there will be absolutely no difficulty at all in Government proceeding directly in the case of surveys against tenants. But all the same I want that the proprietor should, in the first instance, be asked to pay and then collect from the tenants."

Rao Bahadur C. V. S. NARASIMHA RAJU :—"Mr. President, as the clause now stands, the Government will have the duty of apportioning the cost of survey among the zamindar, the ryot, the inamdar and even the unenfranchised inamdar. The only question is how the amount is to be recovered. As the provision now stands the method adopted is rather a circuitous one. The zamindar will have to pay in the first instance and then recover it from the ryot. We know what will be the case if the zamindar were to recover it from the ryot. He will have to resort to the provisions of the Estates Land Act. If the Government were to recover it, they are to proceed under the Revenue Recovery Act. The machinery of the Estates Land Act is not as expeditious as the other, and is every expensive. It has been said that in the case of the zamindari ryot no proceedings can be taken against him under the Revenue Recovery Act. I am rather surprised to hear this from the hon. the Revenue Member. We are aware that a provision is made in the Revenue Cess Act whereby the cess payable by the ryot can be recovered from him directly by the Government under the provisions of the Revenue Recovery Act. I know, as a matter of fact, that it is the first direct dealing between the Government and the zamindari ryot in this province. When that principle has already been introduced and when the Government has got its own machinery for the collection of its dues through the village officials, who

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Clause 20—cont.

are their subordinates, I do not see any reason why Government should complain of the inexpediency of collecting it directly from the ryot. You will by adopting this amendment avoid the circuitous way of collecting the amount which has ultimately to be paid by the ryot, and you will directly collect the dues under the Revenue Recovery Act, which is a more convenient and expeditious measure than the Estates Land Act."

MR. M. SURYANARAYANA PANTULU:—"Mr. President, Sir, I cannot agree with Mr. Narasimha Raju in regard to the acceptance of this amendment. Hon. Members will find that clause 17 specially requires a survey of estates, at the instance of the zamindar, either for more convenient assessment or for levy of irrigation cess. In cases of sub-clauses (1) and (2) of clause 17 the question of apportionment does not arise. Clause 20 speaks of the apportionment of the cost of survey between the proprietor and the tenant. You will find that this survey is specially for the convenience and not for the benefit of the zamindar. It is the zamindar that has made the application for the survey of his estate, and it is at the instance of the zamindar the survey has been made. The cost of the survey has been deposited by him, and Government says that, although the proprietor has paid the cost of survey in the first instance, we should allow him to collect a portion of the cost from the tenant.

12-45 p.m. "Therefore, it is but reasonable that the proprietor should realize this money from the tenant. It is not part of the duty of the Government to take it from the tenant. I submit, therefore, that the clause, as it stands, ought to be allowed and I oppose the amendment."

The hon. MR. K. SRINIVASA AYYANGAR:—"Sir, I want to say a few words to clear the ground. Clause 19, as now amended, reads thus:

All costs incurred by the Local Government on account of a survey directed under clause (a) of section 17.

"That is, where a survey is applied for by the proprietor or proprietors, the costs

shall be recoverable from the persons who have any interest in the estate, portion of estate or boundary of which the survey has been ordered, as an arrear of land revenue.

"This provides for the recovery of the cost of the survey due to the Government from the proprietor or the proprietors or persons interested in the estate. Clause 20 provides for the recovery of the cost of survey due to the proprietor from his tenants. It does not provide for the recovery of the cost due to the Government from any person. It is for the purpose of providing a machinery to enable the proprietor to recover the cost of survey which may have to be borne by the tenant, that this clause is introduced. Clause 20 reads thus:

On the application of the proprietor of an estate in which any survey has been made the Local Government or any officer, or authority to whom this power may be delegated by it, may direct the survey officer to apportion among the holders of the lands or persons interested in the boundaries which have been surveyed the whole or a specified portion of the cost of such survey.

"That is, the amount which the proprietor, or the proprietors, or those who are interested in the zamindari property or the proprietary estate will have paid to the Government under clause 19 will, on the application of the

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Clause 20—cont.

proprietor concerned, be apportioned among the tenants, and the tenants will have to pay the amount thus apportioned to the proprietor. On the proprietor making the application, the Government will direct their survey officer to apportion the cost of the survey, which, under clause 19, will be payable to the Government by the proprietor, among the holders of the lands. When once it is apportioned, the tenant has to pay it to the proprietor and the proprietor is entitled to recover the amount as if it were an arrear of rent due to him from the tenant. Thus, clause 20 does not provide for the recovery of any money due to the Government from the proprietor to be levied directly from the tenant. There is no question of direct or indirect recovery from the tenant. Provision is made here for the recovery of the amount from the tenant by the landlord, the amount having already been levied from the landlord by the Government under clause 19."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"Sir, I am afraid there is some amount of misunderstanding of the position, as has been pointed by my friend, the hon. the Law Member. Under clause 19—the amended clause—the proprietor pays all the charges in the first instance to the Government. That liability has already been established by the amendment of my friend Mr. Ankineedu Prasad Bahadur. The only question that we have to decide is whether, having paid the whole amount to the Government, the zamindar wants that the tenant should pay his proportionate amount to the Government and then the zamindar should recover it from the Government. I do not know what is exactly the position which my hon. friend wants to take in this matter. For, under clause 19, the proprietor has to pay the whole cost of the survey in the first instance, and there is no getting over that. The amended clause has been passed and is part of the Bill. Clause 20 only enables the proprietor to recover the amount from his tenants. If he says that the Government should recover that amount for him, he has no means to recover it from the tenants. If the hon. mover has any objection to pay the whole cost of survey, he should have framed or amended clause 19 in a different manner. Having accepted clause 19 as amended, it is a mistake to say 'we do not want the amount; let the Government recover it'. I am perfectly aware of what Mr. Narasimha Raju has said, with reference to water cess. The payment of this by the tenant directly to the Government has been established by practice and also by the Water Cess Act of 1913. On account of difficulties and inconvenience in the payment of the cess by the tenants to the zamindars, the zamindars gave up their 10 per cent commission which they were getting for the collection of the water cess, and they asked the Government to collect the cess directly from the tenant. It is true. But having now got the present clause—clause 19—in the Bill, I think it is inadvisable to accept this amendment."

Mr. R. SRINIVASA AYYANGAR:—"It seems to me that there is neither substance nor merit in the proposed amendment. As the hon. the Law Member has said, the proprietor has to make the deposit in the first instance. Instead of leaving the question of apportionment to be dealt with by the proprietor on the one hand and the tenants on the other, the Government have taken upon themselves the responsibility of apportioning the amount payable by the tenants to the proprietor. The Government are prepared to take this responsibility so as to avoid any conflict that may arise between

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Clause 20—cont.

the proprietor and the tenant in settling the apportionment, and the Government can be expected to afford help to the proprietor only to this extent, leaving it to the proprietor to recover the apportioned amount from his tenants as though it is an arrear of land revenue. To throw upon the Government two obligations, viz., the obligation of apportioning the liability of the tenant to the proprietor and the obligation of going to the rescue of the proprietor in the matter of realizing it, is to ask the Government to do too much and will be really throwing on the Government obligations which they need not bear; and in view of the fact that already substantial help is given to the proprietor in the direction of apportionment so as to avoid any possible conflict between the proprietor and his tenants, the matter ought to rest here, and I submit that this amendment should be rejected."

Sri M. V. APPARAO Bahadur:—"Sir, the most important point is this. As regards the payment from the tenants, the Government are now recovering it from the tenant and refunding the amount to the zamindar. They are making a paper adjustment. Anyhow, to get over the difficulty now, I propose, Sir, to move, with your permission, another amendment to clause 20."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"I object to the amendment being moved, Sir."

The amendment was therefore not moved. The original amendment (No. 56) was put and lost.

The following amendments were not moved and were therefore deemed to have been withdrawn:—

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—

57. For the words 'a tenant' in line 22, substitute the words 'a ryot'.
Sub-clause (4).

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—

58. For the word 'tenant' substitute the word 'ryot'.

Mr. M. SURIYANARAYANA:—"Sir, I beg to move—

59. After the word 'of' in line 27 insert the words 'an enfranchised or'.

"We know as a matter of fact that there are not only rent-free *inams* but also enfranchised *inams* which pay a certain amount of *kattubadi* to the zamindar and quit-rent to the Government. I do not know whether an *inamdar* who pays *kattubadi* for the *inam* created prior to the permanent settlement and enfranchised at the *inam* enquiry of 1862, comes under the definition of a rent-free *inamdar*. If he does not, there is no reason why such a person should be excluded from this provision. Such an *inamdar* will certainly not thank me for this amendment. But there is absolutely no reason why a rent-free *inamdar* should be included here and not an *inamdar* who pays *kattubadi* to the zamindar and quit-rent to the Government. I therefore move this amendment, Sir."

Mr. R. SRINIVASA AYYANGAR:—"I second it."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"Sir, the answer to the argument of the hon. the mover of this amendment lies in the next amendment which I am myself going to move.

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Clause 20—cont.

The word '*inam*' will disappear from this sub-clause if my amendment is carried, and the word '*grant*' will be substituted. It will be within the recollection of the House that this clause has been inserted in pursuance of a decision of the Madras High Court which recently held that a rent-free grant in a proprietary estate was not liable to bear the expense of survey. Therefore, inasmuch as the High Court have denied the proprietors the right to claim the expenses of a survey from all such tenants under them and have merely restricted that right to tenants who are ryottee or who pay rents, the Government feel that there is no reason whatsoever why the zamindar should be precluded from recovering the proportionate expenses of the survey of a land merely by reason of the fact that that land is exempt from payment of rent. Although they are exempt from the payment of rent, the benefit which a tenant who pays will derive from survey will also equally accrue in the case of one who holds land under the proprietor but pays no rent for some reasons. The word '*inam*' as appearing there is somewhat jarring, which I shall explain when the next amendment, amendment No. 60, is taken up. So, in view of that, I think this amendment need not be pressed."

Mr. M. SURIYANARAYANA :—"The hon. the Revenue Member wants to substitute the word '*granti*' for the word '*inam*' and not for '*rent-free inam*'. So my objection holds. If it is the intention of Government that grants, which were made by the zamindar prior to the permanent settlement fixing a certain amount of *kattubadi*, should be exempted from the operation of this clause, I have no objection. I do not really see how the grantees of inams, which were given prior to the permanent settlement subject to the payment of a small rent in the form of *kattubadi* to the zamindar, can be exempted from paying this contribution to the zamindar for the survey, and why an apportionment should be made only for the rent-free inamdars."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"As regards the liability for the expenses incidental to a survey, the High Court have held that a rent-free grant is exempt; but we want to make it appear that even the holder of a rent-free grant is not exempt. When even he is not exempt, it will be too much to ask that others should be exempted from this liability."

* Rao Bahadur C. V. S. NARASIMHA RAJU :—"I do not think there is any difference of opinion so far as the intention in this case is concerned. The only question is whether the intention is expressed by the clause as we have it now or by the clause as amended by the hon. the Revenue Member. What we generally have in a zamindari village are ryotwari lands and inams granted by the zamindars subsequent to the permanent settlement either entirely free from rent or partly free from rent and inams held under service tenure; and, when a zamindar's village is surveyed, all these classes will be benefited. Now what is generally done is this. When a zamindar's village is ordered to be surveyed, the order will be for the survey of the zamindari village and there will be no mention of the Government lands or settlement service inams which are also situated within the village. Whether these zamindars will be called upon to pay the proportionate cost is one question;

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Clause 20—cont.

and the second question is whether the holders of inams granted subsequent to the permanent settlement by the zamindars, whether wholly free from rent or partly free from rent, will also be called upon to pay."

The hon. Mr. K. SRINIVASA AYYANGAR :—"I want to say a few words. Under clause 20, the cost is to be apportioned between the estate owners and the persons holding lands in the estate under them. In the case of a presettlement inam, if it is a whole village it is an estate; if it is a minor inam it is excluded from the estate. There is no question of holding lands under the proprietor. Clause 20 (1) says :

provided that no tenant under a proprietor shall be called upon to pay a larger sum.

"With regard to the presettlement inam, the inamdar is not the person who is holding under a proprietor. So that class of cases in which there is a boundary fixed between the inamdar and the proprietor will come in under clause 19 and the Government will be entitled to recover the cost from the inamdar directly. Then they levy a certain sum from the big estate holder. You have to apportion it between the estate holder and persons who are holding the lands under him. Sub-clause (1) of this clause 20 makes a provision that the tenant will not be liable to pay more than if he had held directly under the Government as a ryotwari tenant.

"A question arose in the High Court about the boundary of the so-called darimla inams, which are not inams in the technical sense of the term, taken out of the estate, but all forming part of the estate itself. The so-called darimla holder holds his land under the estate holder on a favourable rent. In cases where a person holds it under the zamindar or proprietor on a favourable rent he is called tenant. The word ryot is not used. There happen to be cases, where there have been grants made by the zamindar or proprietor subsequent to the permanent settlement free of rent. In such cases, whether the term tenant in the Original Survey and Boundary Marks Act would include a person of that sort or whether that person would altogether escape, was the question before the High Court, and the High Court held that inasmuch as he was paying no rent at all he would escape. Not only had he a free grant from the zamindar but he was also not liable to pay a portion of the survey charges, though other tenants who held under the zamindar and were paying rent to him had to pay the charges. This clause therefore has been added for the purpose of including such persons also as have got inams from the zamindars subsequent to the permanent settlement but who do not pay any rent to the zamindars. The word *inam* may cause confusion because technically it is used only with regard to grants which were made before the permanent settlement. Therefore it is that the word 'grant' is sought to be substituted for the word 'inam' in the amendment which the hon. the Revenue Member is moving."

The amendment was by leave withdrawn.

Amendment No. 60.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—

60. For the word 'inam' substitute the word 'grant'.

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Clause 20—cont.

"I now formally move the amendment in my name. The whys and the wherefores of this amendment have been already discussed and I do not want to inflict another speech on the House."

The hon. Mr K. SRINIVASA AYYANGAR seconded the motion.

The amendment was put and carried.

Clause 20 as amended was put, passed and added to the Bill

Clause 21.

The following amendment standing against the name of Mr. K. Prabhakaran Tampan was not moved and was therefore deemed to have been withdrawn :—

61. *After the word 'so' in line 43, insert the words 'within the prescribed time'.*

Amendment No. 62.

Mr. B. MUNISWAMI NAYUDU :—

62. *After the words 'the Collector may' in line 43, insert the following :—
'After giving notice to the tenant or proprietor in the manner provided' in sub-sections (2) and (3) of section 15.'*

"Sir, I request that this amendment be taken up after the disposal of clause 15. For, if my amendment thereunder is accepted there will be no necessity for me to move this amendment. If that is not accepted, then I shall move this."

The amendment was allowed to stand over.

The following amendment standing against the name of Mr. S. Arpudawami Udayar was not moved, and was therefore deemed to have been withdrawn :—

63. *In the item (ii) (b) after the word 'aware' in line 1 insert the words 'by personal inspection consequent upon the application in writing or representation in person, by the proprietor or registered holder', and after the word 'fact' in line 3 insert the words 'in official form'.*

Clause 22.

Amendment No. 64.

Mr. M. SURYANARAYANA :—

64. *For the full stop at the end substitute a comma and add the words 'if the registered proprietor omits to comply with the requisition made under section 6 of this Act.'*

"Sir, I propose to move this amendment with some modification. This is consequent on the withdrawal of my amendment under clause 3, which I did on the assurance given by the hon. the Revenue Member that he would remember this matter at the time when he would frame rules under section 26 of this Bill. This amendment was put in on the assumption that my amendment under clause 3 would be accepted. But as I have withdrawn it, I propose to move an amendment to the present amendment. The amendment is to add the words *under any of the rules framed in this behalf*. The hon. the Revenue Member is prepared to make rules under clause 26 requiring the landholder to provide labour in the first instance. In regard to estate surveys

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Clause 22—cont.

also, there is no reason why the landholder should not be asked, in the first instance, to renew, repair or maintain the survey marks and why, if he omits to do it, the Collector should not be entitled to get the work done and recover the cost from the proprietor. This seems to be reasonable, and I do not see any reason why this amendment should not be allowed to go in. If the hon. the Revenue Member is going to attend to this question at the time of framing rules, there is no reason why the rule should not be framed under clause 22, in such a manner as to enable the landholder or the registered proprietor to do the work in the first instance and make the Collector get it done and recover the cost from the landholder or the registered proprietor only if they fail to do it within the time prescribed."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"Sir, I certainly object to any further amendment."

Mr. M. SURYANARAYANA:—"The amendment, as it is, will have no meaning. Therefore, I beg leave to move the amended amendment."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Sir, I second the amendment moved by Mr. Suryanarayana. No doubt the hon. the mover has pointed out the difficulty which arises from the omission of his previous amendment to clause 6. Clause 6 is not capable of any further improvement as it has already been passed. I do not think, however, that the present amendment should be shut out, or that the Revenue Member should hesitate to discuss it. So long as my hon. friend Mr. Suryanarayana wishes that there should be a provision in the Bill to the effect that the provisions of clause 22 should come into operation only when a registered proprietor omits to comply with the requisition made to him, I think it is due to this House to discuss that matter and come to an understanding about it. Rules are proposed to be framed under clause 26, but so long as the powers to enter upon, examine and measure any land under survey and to clear by cutting down or removing any trees, etc., are proposed to be conferred by this clause 22, such powers should come into operation only if the registered proprietor omits to comply with the requisition made to him within the prescribed time. For these reasons I second this amendment."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"I understood, Sir, that we had reached a stage at which we had come to an understanding that wherever there was any clause in this Bill which required some rules of procedure to be framed for its working it would be unnecessary that this House should add to the existing provisions of the clause in any manner, and that it would content itself with a reference to clause 26 in which the varieties of matters on which rules have to be framed are distinctly specified. We had the same species of clauses in regard to lands in the Government area. Attempts were then made for the purpose of incorporating amendments identical with that which we are now considering in the general provisions of the Bill. I then drew the attention of the House to clause 26 (f) which satisfied the House, and all the amendments which had been tabled were withdrawn. The clause (f) reads:

'to regulate the furnishing of survey marks, labour and other matters necessary to surveys notified under this Act and the recovery of charges incidental thereto where they are recoverable.'

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Clause 22—cont.

“ Now clause 22 belongs to the same species. Clause 22 deals with one of the matters which specifically refer to certain circumstances incidental to the carrying out of the survey, and this I say is necessarily one of the species to which the other two types which we have dealt with belong. As there would be a rule-making power, I begged the House not to burden legislation with amendments which would by themselves convey no more than what clause 26 was intended for, and my suggestion was accepted by the House, and all such amendments were withdrawn. I think item No. 12 in the agenda which stood in the name of the hon. the mover of this amendment contained more or less the same idea. In that amendment he wanted that very clear, elaborate and distinct rules should be framed for guiding Government in the matter of clearance within a specified period by cutting down or removing any trees, jungle fences, standing crops, of providing labour and of providing suitable survey marks, etc.; and he intended to add it as a sub-clause. But when it was explained to him that clause 26, as now drafted in the Bill, contained provisions under which all these matters would be provided for by rules, his proposal to add that as a sub-clause was withdrawn by him. And now, when we come to clause 22, this amendment again forms one of the species I mentioned. I would submit that even here, the question that he has raised is one to be considered and decided at the time when rules are made. When rules are framed, as indeed they will be framed under clause 26 (f), all the matters which are referred to in clause 22 will be sufficiently provided for, and it will be laid down what should be done when such duties have to be carried out by a survey officer—the sort of notice to be given to the party, the period of such notice, and what should happen if the landholder fails to do as required. All this is matter for the rules and not for legislation.”

Mr. M. SURYANARAYANA PANTULU :—“ I submit, Sir, that when we discussed the amendment to clause 6, the hon. the Revenue Member gave us an assurance and the amendment was withdrawn. While moving the present amendment I submitted that if the hon. the Revenue Member would be pleased to extend the same assurance to this matter and promise to consider it when framing the rules, I would not press this amendment. I beg leave to withdraw it.”

The amendment was by leave withdrawn.

The following amendment which stood in the name of Mr. S. Arpudawami Udayar was not moved :—

65. *For the full stop at the end substitute a comma and add the following :—
‘ and to that extent only to which such clearing may be necessary.’*

Clause 22 was put and passed, and allowed to stand as part of the Bill.

Clause 23.

Amendment No. 66.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—“ I move, Sir :—

66. *In clause 23, after the word ‘ may ’ in line 24, for the words ‘ for the purposes of any survey . . . in which he has an interest ’, substitute ‘ for the purpose of rendering assistance in the survey of any land summon and enforce the attendance of any person who has an interest therein and may for*

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Clause 23—cont.

the purposes of any survey, inquiry or other proceedings under this Act, summon and enforce the attendance of any person for giving evidence and for the production of documents.

“I may at once remark, Sir, that this makes no material alteration in the clause. It is merely a transposition of words to follow the sequence of events. No more change is made in the clause.”

The hon. Mr. K. SRINIVASA AYYANGAR seconded the amendment.

The amendment was put and carried.

Amendment No. 67.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—“Sir, the amendment I move runs as follows:—

67. *Omit the words ‘as far as it can be made applicable’ in lines 35 and 36.*

“My reasons are these: I have known a number of these survey inquiries. The survey officers are a law unto themselves, though the clause says that for the purpose of summoning witnesses, enforcing their attendance and recording of evidence the provisions of the Code of Civil Procedure apply. The effect of these words ‘as far as it can be made applicable’ is that they will summon any witnesses who, in their discretion, are supposed to know the facts of the case. The evidence in many of the survey cases is very defective and the result is that, from the character of the inquiry, suit in a civil court is found absolutely necessary. When the inquiry is so defective, and when the evidence is not properly recorded, the parties naturally go to the courts. I have seen a number of these cases, and it seems to me that as regards these three matters, namely, summoning of witnesses, enforcing their attendance and the recording of evidence, it is necessary to follow the provisions of the Civil Procedure Code, and I do not see any other course. If you allow the Survey Officer to set his own procedure according to his own ideas of what is practicable and what is not, it seems to me, Sir, there is no need at all for an enquiry before the Survey Officer. The provisions of some clauses, as, for instance, clause 10, say—

After making such an inquiry as he considers necessary.

“Therefore what I propose is that the words ‘as far as it can be made applicable’ should be deleted, and the exact procedure that should be followed in the enquires should be settled by rules which should be framed in such a way that there will be a certain amount of fullness in the record which will induce the parties to accept these decisions, and not go to civil courts unnecessarily. Therefore, if the Survey Officer’s inquiry is to be satisfactory to every party, the procedure should be prescribed by rules and the officer should be made to accept generally the procedure prescribed by the Code of Civil Procedure. I do not understand why these inquiries should be regarded as summary inquiries, especially when some amount of finality is to be given to the decisions of the survey officers. I trust that my hon. friend will not oppose this amendment except on the assumption that this is somewhat of a summary business; but the survey officers sitting under trees may record evidence as they like—sometimes they may be sitting under the canopy of heaven. I hold therefore very strongly that unless the Survey Officer realizes that this is a quasi-judicial inquiry, in which evidence should be recorded with a certain amount of formality and completeness and

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Clause 23—cont.

with all the witnesses of a party, the inquiry will not at all be satisfactory. I have known a case in connexion with a zamindari, where only one witness was examined when 55 were cited, where a lot of documents produced were not looked into, and where the Survey Officer galloped to the boundary and wrote his decision after seeing the place. I think therefore that there should be no hesitation in accepting this amendment."

The House then adjourned for lunch and re-assembled at 2-30 p.m.

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"Sir, in seconding this amendment I wish to point out that the principle underlying this is that in recording evidence the procedure prescribed in the Code of Civil Procedure ought to be followed. The fear is that by the retention of the words 'as far as it can be made applicable,' the officer concerned may ignore the salutary provisions in the Code and fail to record evidence in as satisfactory a manner as he should. It is to guard against this event that the amendment has been moved. I am alive to the fact that the carrying out of this amendment will also necessitate some consequential amendments. For, if the words 'as far as it can be made applicable' are removed and the rest is allowed to stand as it is, it will become necessary to ascertain what sections or rules under the Civil Procedure Code should be observed. In taking evidence in enquiries under the various rules specified in the schedule of the Civil Procedure Code different forms of procedure are prescribed: there is one procedure for negotiable instruments, another for original suits, and another in the case of small causes and so forth. It will therefore become necessary to follow up the present amendment and specify which of the methods laid down in the Code of Civil Procedure ought to be adopted in enquiries by survey officers. In this way, the amendment will become the subject matter of other consequential amendments. If these words 'as far as it can be made applicable' are allowed to remain, my fear is, Sir, that the survey officer may easily ignore these provisions which meet the wishes, the requirements and the convenience of the parties concerned. I therefore support this amendment, pointing out at the same time the need for the consequential amendments."

Mr. C. P. RAMASWAMI AYYAR :—"The words 'as far as it can be made applicable' must, I think, stand for these reasons: Hon. Members will observe that in the Civil Procedure Code to which reference has been made, two ways of recording evidence are prescribed under order 18: one way for recording evidence in cases where appeals are allowed, and another way where appeals are not allowed. It seems to me that 'as prescribed in the Civil Procedure Code' will not meet the difficulties of the case, but give rise to confusion. I appreciate the desire of the hon. Members who have spoken that rules should be framed prescribing the exact manner in which evidence should be recorded, and suggest that an amendment may be moved to enable this to be done under clause 26. If this is done, Government can prescribe rules for the recording of evidence and the Legislative Council may then see that all the formalities of the law are properly complied with and that due regard is paid to the considerations referred to. For these reasons, I submit that the words 'as far as it can be made applicable' ought to stand."

Mr. R. SRINIVASA AYYANGAR :—"Mr. President, it seems to me that the elusive words 'as far as it can be made applicable' may go out, and if the House is agreeable I may suggest a small verbal amendment, namely to

[Mr. R. Srinivasa Ayyangar]

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Clause 23—cont.

substitute the words 'in the manner prescribed.' For the House will notice that under clause 26 (d) the Local Government has to make rules to regulate the procedure to be followed by the survey officers, and so if we say 'in the prescribed manner' or 'in the manner prescribed' the officer will be bound by the rules. Therefore, it seems to me that in the place of the words 'as far as it can be made applicable' the words 'in the manner prescribed' may be substituted."

MR. T. C. SRINIVASA AYYANGAR :—"I second this amendment."

MR. C. P. RAMASWAMI AYYAR :—"May I point out that it will not relieve the trouble, for then it will read

the procedure prescribed in the Code of Civil Procedure for summoning and enforcing the attendance of witnesses and for the recording of evidence shall be followed in the manner prescribed.

"But, as I said, the rules should prescribe the mode of taking the evidence. I think there should be some elasticity in the clause for the bodily embodiment of the Civil Procedure Code."

RAO BAHADUR A. S. KRISHNA RAO PANTULU :—"I think, Sir, that the substitution of the words 'in the manner prescribed' will make matters worse. For, the clause, as it is, says that the provisions of the Civil Procedure Code shall be followed as far as they are applicable, and it will be incumbent upon the officer concerned to follow the provisions of the Civil Procedure Code. I think we shall be giving a very big order to the Government by asking them to frame the rules under this clause and by leaving such instructions to be carried out by the officers. My own fear is that if my hon. friend Mr. Srinivasa Ayyangar's amendment is accepted the object of this clause will be defeated and it will be worse than allowing those words 'as far as it can be made applicable' to remain."

MR. R. SRINIVASA AYYANGAR :—"Then, I had better not press my amendment, Sir."

DIWAN BAHADUR M. RAMACHANDRA RAO PANTULU :—"I only wish to point out this with reference to the observations of the Advocate-General. The difficulty in the words 'as far as it can be made applicable' is the question by whom it is to be made applicable. It is by the officer himself."

MR. C. P. RAMASWAMI AYYAR :—"It is quite possible, Mr. President, to say that in framing the rules the clause will enable the Government to make rules under clause 26 for the recording of evidence. It seems to me that the word 'applicable' can be considered in that sense."

DIWAN BAHADUR M. RAMACHANDRA RAO PANTULU :—"I withdraw my amendment."

The amendment was by leave withdrawn.

Clause 23 as amended was then put, passed and added to the Bill.

Clause 24.

Clause 24 was also then put, passed and added to the Bill.

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Clause 25.

The following amendment standing in the name of Mr. K. Prabhakaran Tampan was not moved, the hon. Member not being in his place, and was therefore deemed to have been withdrawn :—

Sub-clause (1).

68. *After the word 'acquire' in line 53 insert the words 'where there is an express or implied undertaking that such expenses shall be borne by the owner thereof.'*

Clause 25 was therefore put, passed and added to the Bill.

Clause 26.

The following amendments were not moved :—

Sub-clause (1).

Rai Bahadur T. M. NARASIMHACHARI :—

69. *After the word 'may' in line 28 insert a comma and the words 'subject to the approval of the Legislative Council.'*

Sub-clause (2).

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—

70. *Insert the following as sub-clause (2) (a) :—*

'Prescribe the procedure to be followed in inquiries by survey officers' and re-letter the remaining sections.

Mr. C. V. VENKATARAMANA AYYANGAR :—

71. *After the word 'unit' in sub-clause (2) (a) insert the words 'and the method'.*

Amendments Nos. 72 and 73.

Mr. C. V. VENKATARAMANA AYYANGAR :—"Sir, the next two amendments, Nos. 72 and 73, may be taken together, for without the amendment No. 73 No. 72 will be useless. And, in amendment No. 73, it is better that I move the several sub-clauses one by one, and so I move.

72. *Delete the word 'and', at the end of sub-clause (2) (h).*

73. *Add the following after sub-clause (2) (i) :—*

"(j) provide for an agreement book for each village for recording amicable settlements of disputes and awards of all arbitration with signatures of all interested parties."

"I move this amendment as all the orders under the Bill will have the force of law hereafter. It is better that the parties come to some arrangement among themselves and that there should be some record of it. It may be that the record may be somewhere and not available to the public. It is therefore necessary to provide that there should be an agreement book for each village for recording amicable settlements of disputes. When disputes arise, the parties may be agreeable to some award by arbitration, and the survey officer may say that the parties are agreed. Unless this is recorded in a book, there will be no records available when the dispute is

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Clause 26—cont.

taken to a court of law. So I suggest in this amendment that there should be an agreement book wherein the signatures of all the interested parties may be taken."

Rao Bahadur A. S. KRISHNA RAO PANIULU :—" I second it."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" We have considered very carefully, Sir, the suggestion which has been made by the hon. the mover, but I am afraid that the matter he wishes to add for the purpose of making rules is of such a meticulous nature that it need not at all be provided for. In the first instance, as the very clauses (j) to (n) will show, the rules should provide for an agreement book, provide for the approval of the departmental rules, describe the records or statements to be granted. . . ."

Mr. C. V. VENKATARAMANA AYYANGAR :—" I moved only the amendment (j), Sir."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" Then Sir, according to this, the rules should provide for an agreement book for each village for recording amicable settlements of disputes and awards of all arbitration with signatures of all interested parties.' I do not see why you should tie down the officer as to the particular manner in which he should bind the parties to the decisions which may be reached in an arbitration. If there is to be anything like an agreement book, I am afraid that it will have to be in the custody of some definite officer. Of what rank I do not know. Then again the parties are expected to put their signatures in that agreement book. I think in olden days records of even letters received and letters despatched used to be kept in bound books. Those days are happily gone. In modern days we have separate files dealing with each case; in each the whole history relating to that particular case is had. Now, if a matter is referred to arbitration, probably the recommendations made by the arbitrators, the inquiries and the awards made by them, may become such a bulky document that it may necessitate its being maintained as a separate file in itself. The whole thing will become something like an agreement book, and one such book will have to be maintained for each village. I assume that the book will have to be kept in the custody of a village *karnam* or a village headman. If we entrust the agreements to the custody of village officers, I am afraid there will not be the same sacredness for those documents as we should like to attach to them. I have consulted some of the expert survey officers on this point and they assure me that this rule will neither be practicable nor advantageous to any party."

The amendment was by leave withdrawn.

In consequence of the withdrawal of the above amendment the following amendments were considered unnecessary and were not moved. They were therefore deemed to have been withdrawn :

(k) *provide for the approval of the departmental rules by a committee consisting of a few experienced officers, present and retired, of the Survey, Revenue and Settlement departments before final publication.*

(l) *describe the records or statements to be granted to parties at their costs and the parties entitled for the same.*

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(m) provide for the exemption in special cases of proprietors from the payment of costs for any work done at their cost under the provisions of this Act; and

(n) prescribe the penalties for infringements of any of the rules made under this section'.

Sub-clause (3).

Amendment No. 74.

MR. B. MUNISWAMI NAYUDU :—"Sir, I beg to move the following amendment:—

74. For this sub-clause substitute the following :—

'A draft of the rules proposed to be made under this section shall be laid on the table of the Legislative Council and the rules shall not be made unless the Legislative Council by resolution approves the draft either without modification or addition or with modifications or additions; but upon such approval being given, the rules may be made in the form in which they have been approved and such rules, on being so made, shall be notified and thereafter be of full force and effect.'

"Sir, in clause 26 (3) of the Bill, it is stated that all the rules framed under the Madras Survey and Boundaries Act will be laid before the Legislative Council for a period of not less than two months while the Council is in session. No provision is made in the Bill that the Legislative Council should approve of the rules; nor is the Council empowered to modify, or alter or even to suggest any alteration for the consideration of the Government. I presume the rules will be placed here on the table in a printed form, and if we table resolutions on them probably the resolutions will not come up for discussion until a whole session has elapsed. We shall have no chance of making our opinion felt by the Government. The other object that I have in moving this amendment is that the Council should be given an opportunity to discuss the rules and suggest such alterations or modifications as they may consider to be absolutely necessary before the rules finally come into operation. The wording of this clause has been taken from section 203 of the Local Boards Act where a similar provision is made with regard to the rules under that Act. It has been practically accepted now that, where the rule-making power is given to the Government in a statute, there must be some control by the legislature. So that before the rules actually become law—the rules once made have the same force of law, the same force as if they were incorporated in the original Act itself—it is absolutely necessary that they should be approved and sanctioned by the Council. In these circumstances, I think that if my amendment is accepted, it will empower the Council to discuss the rules and suggest modifications or alterations which may be necessary. Otherwise the rules will be published in the Gazette, and, if nobody comes forward with any objections to them within six weeks, the rules will have the force of law. Even if objections are raised by somebody, the answer will be—as it is usual with such objections—that they have all been very carefully considered by the Government and that they see no reason to modify or alter any of the rules published by them. We have practical experience of cases in which objections had been taken, and how they were disposed of by the Government. As an instance I may state that, in a particular municipality, the

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Government proposed to replace one committee by another under the Local Boards Act. There was a protest from the Municipal Council and also from the Municipal Conference, but the Government replied that they carefully considered the protest and saw no reason to reverse their former decision.

“Under these circumstances I submit that the amendment should be accepted by the House.”

Mr. M. SURYANARYANA seconded the amendment.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—
 “I may at once inform the House that the power given to the Government to make rules is what we call the residue of legislation. All principal provisions which ought to go into the body of the Act are embodied in the Act itself. But where it is a question of giving effect to the intentions of legislation, the legislature does not bother itself. It is left to the executive to carry out the intentions of the legislature, as contained in the legislation itself, by means of rules. While legislation is unalterable without the specific sanction of the legislature, the rules are framed, modified, altered, or rescinded by the orders of the executive. That, Sir, is the general principle on which legislation is framed and power is given to the Government to frame rules thereunder. But if it is now sought to bring the rules also on the same level and under the same category as legislation, then one may wonder why the legislature does not assume to itself the function of framing the rules in the Bill itself. At that rate, I am afraid the whole of the Survey Manual, itself a bulky book, as hon. Members may know, will have to be edited in the legislature and form the Survey Act. I would therefore appeal to hon. Members to decide whether a procedure like this is possible. What after all is the nature of the rules that are expected to be framed under clause 26 of the Bill? I would request the House to remember that having disposed of the main issues which legislation and legislation alone can specify, we have come to clause 26 which empowers the Local Government to make rules. The House will see that some of the matters referred to in clause 26 are such as the House, I am sure, cannot very much be interested in. Nor do I think it will be to the advantage of the House to waste its time in going through the rules carefully, table resolutions, or make alterations or suggest amendments thereto. Will the House consider it worth its while to prescribe for each locality the unit of survey, the subdivisions thereof and the descriptions of the survey marks? I wonder whether when the Government make rules on this matter it will be to the advantage of the House to know what are the rules that the Government have made in regard to different localities, the unit of survey to be conducted thereunder and the subdivisions thereof. Will the House trouble itself to know how a survey field should be surveyed, how a revenue field should be surveyed, how many survey fields must constitute one *khandam* and into how many *khandams* a village has to be subdivided? All these meticulous details will be found in the rules made under clause 26 (a). Will it be to the advantage of the House to be bothered with all the elaborate rules which will necessarily have to be framed under clause 26 (a)? There is another rule under which the Government will have to define the classes of officers to be appointed under this Bill and the powers to be exercised by such officers. All this will depend upon what staff is available, the

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number of gazetted officers and the non-gazetted officers that may be available for a party, and various other factors. I expect the Council will not bother itself with all these details but will leave them to the executive Government. You have also to provide for the publication of all notifications issued under this Act, for the form, issue and service of all orders, communications, notices, etc. These are all matters which, I suppose, every one is familiar with. The House has already given me additional instructions in the matter of publication, namely that besides being published in the *Fort St. George Gazette* and in the District Gazette, the notifications should also be published in the village chavadi wherever there is one. As regards the form of notice to be issued, they can be best determined only by the officers of the Survey Department. What information should be given in a particular notice, what information should be given to a party—all these are matters which the survey officers alone will be in a position to decide. That all such rules should be laid before the House so that it may get a general idea as to how the administration of the Survey Department is being conducted, I can understand; but I confess I do not see why it should be said that these rules should not be given effect to unless they have been approved, modified or altered previously by the Council. To say that only such approved, altered or modified rules shall come into force, is, I am afraid, asking a bit too much. For, as soon as the Government see the necessity for survey in a particular district, they issue a notification at once; and I may also inform the House in this connexion that what may be quite applicable in the case of the survey of the Tanjore district may not be applicable in the case of the survey of the Anantapur district.

“So, the rules will have to be varied from time to time according to the conditions of each locality. As soon as a notification is issued
 3 p.m. the whole party must start its operations; but if I have to wait for an indefinite period to learn the pleasure of the House as regards the sufficiency or otherwise of the rules which I am going to frame for the conduct of the survey either in Tanjore or Anantapur, what is the survey party going to do in the meantime? We have been told that there is much congestion of work in this Council already, and, I believe, as we go on from month to month, the congestion will go on increasing. Now, under such circumstances, if I lay the rules on the table of the House in the month of March to enable me to begin the survey in the particular locality in the month of April,—April to September or August, as the case may be, is the recess of the House and it will not be until September or October that this House will meet again—where is the guarantee that these rules will be taken up for discussion at the very first meeting that is held immediately after the rules are so laid? It may be that these rules will have to abide their own time or it may be that they may not come at all in the course of a session. Therefore I shall have to be indefinitely waiting for the pleasure of the House before effect can be given to these rules; because the House had no time to consider them the survey party shall have to be given ‘French leave’ as it were with nothing to do but to draw its pay all the same, for wherever else I may employ them I must give them the rules. It may be that there are some rules of common application, but again there are rules which will vary from locality to locality and if the hands of Government are tied down, as indeed they are proposed to be tied down by

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Clause 26—cont

this amendment, that not a single rule be altered or amended unless that amendment is placed before the House and the House accepts it, I am afraid, Sir, that the execution of the work will be considerably retarded. Let it not be understood that I am not willing to consult the House on these matters. I may assure them, that, whenever new rules are framed, I shall summon to my aid non-official brethren of mine and consult them as indeed I did just the other day. I had a conference of my non-official brethren and asked them to advise me as to how I must conduct my future survey and settlement parties in this province. I am thankful to them. They gave me their advice. Now, in similar matters, so long as I have the benefit of non-official assistance available, I shall surely consult them whenever there is a necessity. But to tie down the hands not only of the present Revenue Member but of his successors, by a statutory rule like this, is aiming not at an expeditious disposal of work, but lengthening the process of work. In the present sub-clause, I have made it sufficiently clear that I shall not absolve myself of my responsibility by placing these rules before the Legislative Council for two months, whether it is in session or not, and then say I have done my duty. It is obligatory to place these rules only when the House is in session. After they have been laid on the table, I shall not give effect to them for a period of two months. If in the meantime any hon. Member has got any sound advice to give me or valuable suggestions to offer, nothing prevents him—as indeed he does in every other matter—from tabling a resolution or communicating to me demi-officially that such and such a thing is necessary in the interests of the ryot. I am as much interested in the welfare of the ryots as anybody else. In view of all this, I think that this long-winded procedure that is suggested by the amendment will rather retard work than help it.”

Rao Bahadur A. S. KRISHNA RAO PANTULU :—“Sir, after hearing the considerably long remarks of the hon. the Revenue Member on this motion, I wish to know whether even if he is not prepared to accept this amendment to the full length to which it goes, he will be in a position to accept the motion ‘that it will come into force after a particular period unless it is amended at a meeting of the Council which may be held later on’. If the hon. the Revenue Member will accept this, it will be possible for us to come to an understanding. Merely placing the rules before the Legislative Council will not satisfy any purpose. Unless there is a definite provision to the effect that they will not come into force before a certain period specified therein, unless they are modified at a meeting of the Council, as in the case of the Industries Bill, this question cannot be solved in a satisfactory manner. If the hon. the Revenue Member is not prepared to concede this, I should request the hon. mover to press his motion.”

Rao Bahadur K. GOPALAKRISHNAYYA :—“No doubt there is considerable force in the argument of the hon. the Revenue Member. But as the clause stands at present, no purpose will be served by merely placing the rules before the Legislative Council. It is necessary that the rules that are to be laid before the Legislative Council should be subjected to modification or alteration. If it will be acceptable to the hon. the Revenue Member I may add the following words here: ‘Not less than two months for modification, if necessary.’”

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The hon. Sir CHARLES TODHUNTER :—" Mr. President, I really do not know why the last speaker should presume that any rule that the Government makes must necessarily need modification. Government have made a great many rules on a great many subjects for a great many years and they make them with the greatest care they can. Again, supposing these rules do need modification, I don't understand why he should say that no purpose is served by placing them before the House without the power to modify them. The House can express their opinion. They can move resolutions suggesting changes and every attention will be paid to those resolutions. So it cannot be said that placing the rules before the Council serves no useful purpose. The only question is whether every little detail should be placed upon the legislative anvil. If anybody will examine the Survey Manual he will find what a mass of technical detail there is. On these matters you must trust the experts. There are different systems of survey and elaborate rules as to their working. Are we to submit all these rules for criticism to the Legislative Council, who, I respectfully submit, are not experts in the matter? I submit that what the Bill provides is ample for the purpose."

Mr. V. PAKKIRISWAMI PILLAI :—" Mr. President, the clause says that all such rules shall be laid before the Legislative Council for a period of not less than two months while the Council is in session. The Council must have power to modify such rules or pass resolutions on them and then only they can have the force of law. I think the principle of laying them before the Council is intended for that purpose. With these words I support the amendment."

Mr. B. MUNISWAMI NAYUDU :—" There are certain modifications which may become necessary in any Bill for which provision ought to be made. Under the clause, the Council has not got power to so modify the rules. This system has not worked satisfactorily. This will impede work. I understood the hon. the Revenue Member finally saying that he will lay the rules before the Council before giving effect to them. As such, there is certainly no reason why this amendment should not be accepted. By framing the rules and merely publishing them in the Gazette, they should not become law. They can become law only after objections have been considered by the Government. The Government can confirm the rules after they are placed before the Council for their criticism. Under the circumstances, I think, there will be no serious hardship in accepting the amendment which merely says that the rules should come into force as soon as they are confirmed, but should be subject to the approval or modification by the Council at any meeting. If the hon. the Revenue Member is willing to accept the amendment I shall be glad. Otherwise I press the amendment."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" Whatever I said in my previous remarks, I stand by them to every word. I did say that I would consult some of my non-official brethren before framing the rules; I did say that the rules would be laid on the table for a period of two months, and that it would be absolutely open to any Member of the House to table any resolution in case any one of the rules did not meet with his entire approval or in case he intended to make any suggestion. But, Sir, I certainly demur to the consequences which will naturally arise by the acceptance of the amendment

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Clause 26—cont.

tabled by my hon. friend. For, I shall be precluded from taking any action even on such rules as are of a non-controversial nature. For, if I should appoint an officer and give him certain functions under the rules which I am entitled to frame under sub-clause (c), I am precluded even from notifying his appointment in the Gazette; I am precluded from issuing an order giving him certain specific duties unless and until these rules have been placed before the House, and a formal approval of these rules has been expressed by the House. There are, as I said, certain matters in clause 26 which will require immediate action. There are matters which I am sure the Council will not care to consider. There may be some other matters in which their advice may be necessary. In these matters, as I said, if any hon. Member tables any resolution and draws the attention of the Government, the Government will indeed be only too glad to take advantage of the suggestion and will try to see how far it is practicable. There may be cases in which probably an advice may be tendered by the House on a purely technical matter which may be regarded as impossible to accept. To be sure, the House will not expect that we who are employing so many expert officers at such considerable expense should relegate their views to the limbo of oblivion and be guided by the advice of the House even on technical matters. As I said, the acceptance of the amendment will lead to numerous complications and numerous difficulties.

“Then, I may probably draw the attention of the House to section 23 of the General Clauses Act, Act X of 1897. The clause reads:

Where a power to make rules or by-laws is expressed to be given subject to the condition of the rules or by-laws being made after previous publication, then the following provisions shall apply, namely:—

(1) the authority having power to make the rules or by-laws shall, before making them, publish a draft of the proposed rules or by-laws for the information of persons likely to be affected thereby;

(2) the publication shall be made in such manner as that authority deems to be sufficient or if the condition with respect to previous publication so requires, in such manner as the Governor-General in Council or the Local Government prescribes;

(3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration;

(4) the authority having power to make the rules or by-laws, and where the rules or by-laws are to be made with the sanction, approval or concurrence of another authority, that authority also shall consider any objection or suggestion which may be received by the authority having power to make the rules or by-laws from any person with respect to the draft before the date so specified;

(5) the publication in the Gazette of a rule or by-law purporting to have been made in exercise of a power to make rules or by-laws after previous publication shall be conclusive proof that the rule or by-law has been duly made.

“These are the provisions which we have strictly kept in mind and it is in conformity with these that we have made the provision that these rules should be laid before the Legislative Council for a period of no less than two months when the Council is in session. And over and above that we know our duty. We shall publish them in the local Gazette or the District Gazette as the case may be, invite criticisms and objections. We shall not only be benefited by the criticisms of this House, but also by those of the public. When I quote the General Clauses Act, some of my hon. friends who are lawyers may think that I am quoting from an Imperial enactment which perhaps has not much force in the Madras Province. But, Sir, I may say that section 7 of the Madras General Clauses Act has bodily incorporated the section which finds a place in the all-India General Clauses Act. I shall

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Clause 26—cont.

not weary the House by reading the same provision in the Madras Act. However, if the House thinks that there had better be as much opportunity given to the public at large, as is indeed the intention of the Government to do, and if they insist that I should publish these rules in the gazette before I lay them on the table of this House, I am quite prepared to do it. If this suggestion of mine that all such rules shall be published before they are laid before the House meets with the wishes of the House, I am quite amenable."

Diwan Bahadur M. Ramachandra Rao Pantulu (rising to speak.)

The hon. the DEPUTY PRESIDENT (*from the Chair*):—"Is the hon. Member Mr. Ramachandra Rao going to correct any statement of the hon. Member for Revenue?"

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"No, Sir, I cannot say I rise to correct the hon. Member's statement. But in justification of the position taken up by my hon. friend the Revenue Member, I wish to make a suggestion to the mover of the amendment."

The hon. the DEPUTY PRESIDENT (*from the Chair*):—"Then, I am afraid, I cannot allow the hon. Member to speak for the simple reason that we have practically wound up the debate with the hon. the Revenue Member's reply. If I am to allow a speech from the hon. Member Mr. Ramachandra Rao, the hon. Member for Government and the mover of the amendment will have their right of reply. That will prolong the debate. I shall therefore now put the amendment to the vote."

The amendment was put to the vote and a poll was taken. The House divided as follows:—

Ayes.

- | | |
|---|--|
| 1. Rao Bahadur T. A. Ramalinga Chettiyar. | 8. Mr. V. P. Pakkiriswami Pillai. |
| 2. Mr. K. Adinarayana Reddi. | 9. " P. T. Rajan. |
| 3. Rao Sahib S. Ellappa Chettiyar. | 10. " W. P. A. Soundarapandiya Nadar. |
| 4. Rao Bahadur K. Gopalakrishna Ayya. | 11. Dr. P. Subbarayan. |
| 5. Mr. K. A. Kandaswami Kandar. | 12. Rao Bahadur A. S. Krishna Rao Pantulu. |
| 6. " J. Kuppaswami. | 13. Mr. M. Suryanarayana. |
| 7. " B. Muniswami Nayudu. | |

Noes.

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|--|--|
| 1. The hon. Sir Charles Todhunter. | 18. Mr. S. Somasundaram Pillai. |
| 2. " Khan Bahadur Sir Muhammad Habib-ul-lah Sahib Bahadur. | 19. Diwan Bahadur M. Ramachandra Rao Pantulu. |
| 3. " Mr. K. Srinivasa Ayyangar. | 20. Diwan Bahadur M. Krishna Nayar. |
| 4. " the Raja of Panagal. | 21. Mr. C. V. Venkataramana Ayyangar. |
| 5. " Rai Bahadur K. Venkatarreddi Nayudu. | 22. Sir T. Desika Achariyar. |
| 6. " Rao Bahadur A. P. Patro. | 23. Mr. S. Muttumanikkachari. |
| 7. " Mr. A. R. Knapp. | 24. Diwan Bahadur D. Seshagiri Rao Pantulu. |
| 8. Mr. C. P. Ramaswami Ayyar. | 25. Mr. T. C. Srinivasa Ayyangar. |
| 9. " F. J. Richards. | 26. " M. Ratnaswami. |
| 10. " E. Periyannayagam. | 27. Rev. W. Meston. |
| 11. " T. C. Tangavelu Pillai. | 28. Mr. Ahmad Miran Sahib. |
| 12. " A. Ramaswami Mudaliyar. | 29. Muhammad Abdur Rahim Khan Sahib. |
| 13. S. R. Y. Ankineedu Prasad Bahadur. | 30. Khan Bahadur Munshi Muhammad Abdur Rahman Sahib. |
| 14. Mr. M. Appalanarasayya Nayudu. | 31. Saiyid Diwan Abdul Razaq Sahib. |
| 15. " R. Appaswami Nayudu. | 32. Khan Bahadur Muhammad Sadulla Badsha Sahib. |
| 16. " K. Sitarama Reddi. | 33. Khan Bahadur Muhammad Usman Sahib. |
| 17. Diwan Bahadur T. N. Sivagnanam Pillai. | 34. Mr. A. M. MacDougall. |

The amendment was lost: ayes 13, noes 34.

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Clause 26—cont.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—“Although the amendment of Mr. B. Muni-swami Nayudu has been lost I feel that I owe it to the House that I should myself move the amendment which I had offered to the hon. Member who has lost his amendment; and, I think, the offer I made must have influenced the hon. Members who voted against it. I formally move that :—

After the word ‘may’ in line 28 of clause 26, sub-clause (1), the words ‘after previous publication’ be inserted”.

The hon. Mr. K. SRINIVASA AYYANGAR :—“I second it.”

The amendment was put to the House and carried.

The following amendment standing in the name of Rai Bahadur T. M. Narasimhaachari was considered to have been withdrawn, the hon. Member not being in his place :—

75. *For this sub-clause substitute the following :—*

‘A draft of such rules shall be laid before the Legislative Council for its approval, with or without modification, by a resolution of the Council. On such approval, the rules so approved shall be notified in the prescribed manner and shall thereafter have the force of law under this Act.’

The following amendment standing in the name of Rao Bahadur A. S. Krishna Rao was not moved and was therefore deemed to have been withdrawn :—

76. *Omit the words ‘while the Council is in session.’*

Clause 26, as amended, was then put to the House and carried and added to the Bill.

Clause 27.

Clause 27 was put to the House and carried and added to the Bill.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“Sir, may I make a statement? I understand from the hon. the Revenue Member that he has no intention to move that the Bill be passed into law at this meeting; and in view of the various amendments passed in the Bill he proposes to bring the Bill forward at the next meeting. Under these circumstances unless the hon. the Revenue Member moves that the other clauses that have been accepted by the House may become law, it will be open to any hon. Member to amend these clauses or to give notice of amendment of any further clauses. This clause may be carried to the next meeting subject to the understanding that the hon. the Revenue Member does not make a final motion but will reserve that motion for the next meeting on the 29th January 1923. In the meanwhile it will give us opportunity of bringing those two clauses in conformity with the wishes of the House. That is all I wish to suggest, Sir.”

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—“It is true, Sir, that I have no intention at present to move that the Bill as amended by the House be passed into law at once. My simple reason for it lies in the fact that inasmuch as a few amendments have been passed

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Clause 27—cont.

by the House it will be only in the fitness of things that all these amendments as have been passed should be incorporated in their proper places and I be given an opportunity of examining the Bill once more with a view to determine whether any consequential amendments of other clauses in this Bill would become necessary as a result of the amendments which have been accepted by the House. When I had those intentions, it was farthest from my thoughts that I was going to allow this post-mortem process of taking it clause by clause once more at that meeting and subjecting it to the sharpness and precision of a knife. If hon. Members are not prepared to go ahead with clauses 15 and 21, I will at once move that they had better become part of the Bill. And if any hon. Member is not willing to have that done, it is open to him to oppose it and have the opposition carried. I have got the strongest objection to having a further discussion on every section and keep the door of further amendments to this Bill open until that day. If this procedure is going to be repeated on the 29th January when I am hoping to pass this Bill into law, amendments might be brought in and discussed and then I have got to repeat the same procedure and ask again for the postponement of the Bill to consider any further consequential alterations and for a third time perhaps the same procedure would be required to be continued and in that way there would be no finality reached in any legislation."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"I think, with due deference to the observations of my hon. friend the Revenue Member, I may invite his attention to the rules. Standing Order No. 49 (2) reads :

If any amendment be made, any member may object to the passing of the Bill at the same sitting; and such objection shall prevail, unless the President, in the exercise of his power to suspend this order, allows the Bill to pass.

"That is the portion to which I may invite the attention of the hon. the Revenue Member. If he makes a motion that the Bill be passed into law, then I shall object to it under this section. And if he does not make that motion now for a final passing of the Bill, then the final motion will be made on the 29th January so that the question of discussing further amendments would be complicated if he does not make the motion to-day."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"The fact is that I do not agree with the interpretation of my hon. friend in this particular instance though he is accurate in his interpretations generally. That rule only applies in cases where a motion of the sort is made, viz., that the Bill be passed into law. There is an objection raised from the House that it shall not be passed into law in that sitting. I say that the House has considered all the amendments tabled and in view of these amendments I have no intention to rush through the Bill for the reason that there may be consequential amendments. We know that legislation should be absolutely perfect for an unnecessary word here or there might distort the intentions of the legislators. I repeat that I am going to make the motion after considering all these things. And therefore the stage for quoting the rule has not arisen at all. It is only after the Bill is complete and it is only when that stage has been reached that I am going to say what I am going to say. It is true that I told my friend opposite that I had no intention of moving for the Bill being passed into law in this meeting. But so far as the consideration of the Bill is concerned, it is not yet completed."

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Clause 15.

Rao Bahadur A. S. KRISHNA RAO PANTULU :—“Sir, in the course of the discussion of the amendment that I moved yesterday, a suggestion was made that, if possible, we might come to some understanding regarding it. That was the stage at which we agreed that we could keep off further consideration of clause 15. It is quite true that the hon. the Revenue Member is not called upon to move, at present, that the Bill need not be passed into law. But if I withdraw my amendment now and allow clause 15 as it is and later on make a motion for a further amendment, the Revenue Member will be at liberty to come forward with various objections. Therefore, if the hon. the Revenue Member will not make a motion now, I have no other alternative than to proceed with my amendment.

“Sir, in speaking on my amendment of yesterday, I wish to point out that there were two objections against the amendment. One was that it would be inconsistent with the first portion of the clause. And I am surprised to find that my friend, Mr. Krishnan Nayar, went the length of saying that it would not only be inconsistent but also that it would reflect no credit on this House if it should be accepted in that form. Probably he was not aware of the fact that by accepting the first amendment we were actually making the position worse than before. Therefore, it is quite essential that while maintaining that position for the purpose of determining the liability of these three different persons regarding the maintenance or renewal of the survey marks, it is essential that, when we come to the operative portion of making provision for the recovery of the cost, we should fix it upon the landholder. I can point out to the House that there is absolutely no inconsistency in it. I can show any number of parallels where there are particular clauses to determine the rights of parties and altogether different clauses which provide for the remedies for the purpose of enforcing the rights created by the previous clauses. I go further and state that it is only when we do not make such a provision as is contemplated by the amendment I have moved, it will reflect upon the work done in the Council.

“Another objection which, I remember, was raised yesterday was that the retention of the words ‘and apportion the cost of so doing’ would give rise to some anomaly. It was my friend,

Mr. Ramachandra Rao, that raised that objection. But let me remind the House that the words ‘and apportion’ were in this clause even before the amendment was accepted by this House. Even though under clause 15, as originally drafted, the person from whom money was to be recovered was the registered holder, the words ‘and apportion’ remained in that clause. Therefore the words ‘and apportion’ were used not for the purpose of apportioning the responsibility as between these three different persons, but for the purpose of the apportionment of the cost as between the maintaining, renewing and repairing of the survey marks. Therefore, the presence of the words ‘and apportion’ need not give rise to any difficulty; and, taking the spirit of it, it can only mean the apportionment of the cost in respect of the three different works carried on. It is true that by the addition of the words ‘owner or occupier’ it has been possible to construe or misconstrue the words ‘and apportion’; and if there is any such difficulty, I believe that the object will be served by the words ‘and apportion’ being dropped out from the clause altogether. That can very easily be done by one of my friends separately moving it as a consequential

3-45 p.m.

22nd December 1922] [Mr. A. S. Krishna Rao Pantulu]

Clause 15—cont.

amendment. The words 'determine the cost' are sufficiently comprehensive to include within their purview the question of the apportionment also, and the words 'and apportion' are absolutely superfluous and there is no necessity for retaining them at all in this clause. Therefore, Sir, I submit that it will be unfair on the part of the Government to oppose this amendment. The amendment is intended merely to make it obligatory on them to recover the cost as an arrear of land revenue only from the registered holder. Till the other amendment was passed, they accepted that position and did not demur to it, and they ought not to take advantage of the addition of the other two words which created additional liability on the owner or the occupier for the purpose of enforcing the remedy against those persons also. I propose that this amendment should go forward."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—
"I wish at once to point out, Sir, that the difficulty in which the House finds itself involved to-day is one of its own creation. Government were not at all anxious to bring on the scene the individuals who had been dragged in yesterday. We made it sufficiently clear that the recovery should be only from the registered holder as indeed the original clause will show. Even when this amendment was moved, I, on behalf of Government, objected to it and said that the addition of those words would create difficulties for which there was no possible solution. We possess at present a register where we record the names of what we call the registered holders. We have no chance, no means and no opportunities of knowing who the real owner of that property is, who the real occupier of that property is, and, if occupier, with what title, or with what right, and whether he is liable to pay any incidental expenses to Government at all. All these difficulties I pressed, and pressed as hard as I could, but the House was determined to incorporate those words. After having incorporated them, they find that they have now involved themselves into difficulties out of which they want to extricate themselves, and I am sure, Sir, that the proposed solution will land them again into fresh difficulties.

"However, it is now the intention of the amendment, although the liability in the first part of this clause attaches to three individuals, viz., the registered holder of Government land, the owner or the occupier, to recover the cost only from the registered holder and to leave the owner or the occupier seriously alone. Now, if the clause is left as it is, then there is another difficulty with which I am confronted. The words are 'determine and apportion the cost of so doing and recover such cost as an arrear of land revenue.' Now, when three distinct individuals are mentioned in the early part of the clause as being legally liable to Government for the payment of these expenses, and when in the body of the same clause it is distinctly stipulated that the cost must be determined and apportioned, one will naturally imagine that the apportionment refers to the three different individuals. But the latter portion of the clause says: 'No, the apportionment does not relate to these three individuals at all; the recovery shall be made only from one of the three.' If the recovery is to be made from one of the three only, why should legislation specify two others as being liable for a thing for which law does not attach any liability on them at all? When the other two are exempted from liability, why should they be brought on the same category as the registered holder and be placed on a similar par

[Sir Muhammad Habib-ul-lah Sahib] [22nd December 1922]

Clause 15—cont.

with him and included in the distinct provision that these three individuals are liable for the cost? I mean to say, Sir, that the more you are trying to tinker with this clause, the more difficulties it will land you in. If only my advice of yesterday had been taken by the House and the clause had been left severely alone, as it was in the original Bill, all these complications could have been avoided. I am, therefore, unable to understand, Sir, what exactly it is that I am asked to accept."

Diwan Bahadur M. KRISHNAN NAYAR :—" Will it be in order, Sir, if I move that the clause 15, as amended by the Select Committee, be restored and be passed?"

The hon. Mr. K. SRINIVASA AYYANGAR :—" We do not want to oppose it at all if you bring it forward."

Diwan Bahadur M. KRISHNAN NAYAR :—" I say that, because it seems to me that the clause, as it now stands, throws the responsibility for the maintenance of these stones on three different persons, viz., the holder as well as the owner and the occupier from any one of whom the amount can be recovered. To meet the wishes of the House generally, I shall move an amendment if I am permitted to do so."

The hon. the DEPUTY PRESIDENT :—" I allow it."

Diwan Bahadur M. KRISHNAN NAYAR :—" I formally move, Sir, that the clause 15 as it stood in the Bill, as amended by the Select Committee, be restored and passed and do form part of the Bill."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" My attitude towards
4 p.m. this motion is this."

The hon. the DEPUTY PRESIDENT :—" Are you willing to allow Mr. Krishnan Nayar's motion?"

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" I wish to explain my position. If the House is not going to raise any objection I have no objection to withdraw. But before knowing whether the House is going to take it up. . . ."

The hon. the DEPUTY PRESIDENT :—" Then I will put the motion to the House."

Mr. E. PERIYANAYAGAM :—" I wish to raise a point of order, viz., whether the Deputy President can preside when the President is here."

The hon. the DEPUTY PRESIDENT :—" He is outside the precincts of the House" (laughter).

Rao Bahadur K. GOPALAKRISHNAYYA :—" I wish to know whether the motion made by Mr. Krishnan Nayar is quite in order, when we have gone far ahead by way of considering clause 15. The question is whether we can go behind the consideration of that clause and now move that the whole clause as it is be taken into consideration."

The hon. the DEPUTY PRESIDENT :—" So it is that I take the permission of the House. The Government said that they had no objection and Mr. Krishnan Nayar has moved it."

Rao Bahadur K. GOPALAKRISHNAYYA :—" The Government will be very willing."

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Clause 15—cont.

Diwan Bahadur M. KRISHNAN NAYAR :—“It is against the Government.”

The hon. the DEPUTY PRESIDENT :—“Then the best thing is to put Mr. Krishna Rao's amendment to the House.”

Mr. Krishna Rao's amendment was then put and lost.

Diwan Bahadur M. KRISHNAN NAYAR :—“Now, I move, Sir, that clause 15, as it stands in the Bill and as it has been framed by the Select Committee, be accepted and allowed to stand part of the Bill.”

Mr. C. V. VENKATARAMANA AYYANGAR :—“I second it.”

Rao Bahadur K. GOPALAKRISHNAYYA :—“Does my objection hold good, now, Sir?”

Diwan Bahadur M. KRISHNAN NAYAR :—“Sir, you have given your ruling and now the motion is before the House. It is for the House to accept or reject it.”

The hon. the DEPUTY PRESIDENT :—“I should like to have the help of the hon. the Law Member.”

The hon. Mr. K. SRINIVASA AYYANGAR :—“It is a question of the order of the President. I thought the President had given his ruling. The House has no business to go back upon the ruling of the President.”

The hon. the DEPUTY PRESIDENT :—“What I said was that I wished to take the permission of the House.”

The motion of Diwan Bahadur M. Krishnan Nayar was then put and carried and clause 15 was allowed to stand part of the Bill.

Amendment No. 41.

Mr. B. MUNISWAMI NAYUDU :—“Sir, I wish to move amendment No. 41.”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“Mr. President, clause 15 of the Bill has been accepted by the Council. What Mr. Muniswami Nayudu wants to do is to add a sub-clause after clause 15 which has already been carried out. That is amendment No. 41 on the paper. I think he is perfectly in order and he can move it.”

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—“I wish to raise a point of order.”

The hon. the DEPUTY PRESIDENT :—“You will kindly sit down.”

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—“Certainly I am entitled to be heard when I rise to a point of order. Clause 15 has been passed; the sanction of the Council has been taken, and it has become part of the Bill. After that I beg to submit that no amendment to that clause can be allowed.”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“They are only additional sub-clauses.”

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—“Whether they are an addition or subtraction they will become part of the clause.”

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Clause 15—cont.

Mr. C. V. VENKATARAMANA AYYANGAR :—The motion of Mr. Krishnan Nayar was that clause 15 do stand part of the Bill. That has been carried. Any amendment must have been brought as an amendment to Mr. Krishnan Nayar's amendment. That has not been done."

Mr. B. MUNISWAMI NAYUDU :—"I thought that the discussion was on the clause as it stood. My amendment is only an addition to the clause. If you will now allow me to move my amendment I will do so."

The hon. the DEPUTY PRESIDENT :—"I think he can move."

Mr. B. MUNISWAMI NAYUDU :—"I thank you for the permission given. I move :

41. (i) *Number the existing clause as sub-clause (1).*

New sub-clauses.

(ii) *Add the following as sub-clause (2) :—*

'Before a survey officer or Collector maintains, renews or repairs any survey marks, he shall serve a notice in writing on the registered holder giving particulars of the survey marks in respect of which default has been committed and calling upon him to maintain, renew or repair the same within a time to be prescribed in such notice which shall be not less than 15 days from the date of service thereof.'

(iii) *Add the following as sub-clause (3) :—*

'If the notice prescribed in sub-clause (2) cannot be served personally on the registered holder, a copy of the same shall be served also on the cultivator or other person interested in the land.'

"Clause 15 as now amended lays down an obligation on the registered holder to maintain and repair the survey marks. It also lays down that if he should default in doing so then the survey officer may, at the expense of the Government, have the repairs done, and collect the money subsequently from the registered holder. Sir, there has been a lot of discontent about the way in which this provision has been worked till now. For some time past, notice used to be given to the cultivator or the ryot and if they did not finish the repair, Government had the repairs done, sent the bill, and collected the amount. My objection to this is that this is a penal clause. Before he can be said to have committed the default, it must be clearly shown to him that he did not carry out the repairs when he was called upon to do so. If it were to depend upon the sweet will and pleasure of the karnam or the monigar, they will say 'I told him personally and he did not do it.' I also learn that it is futile to depend upon the revenue inspectors for, they cannot be expected to check the stones quarterly or annually. In any event, Sir, serious difficulty has been felt. They simply say that the stones were buried in the ground or that they repaired the stones and charge them at the rate of twelve annas each. Recently a question was asked as to the amount collected by such replacement or repairs of stones and the answer was that the amount aggregated to a lakh of rupees. If the revenue inspector says 'you should replace it', there is absolutely no chance to the ryot. Sometimes he is made aware of the fact that his stones were repaired only when the money is demanded. Then he has to contend that the stone was there and the statement that it was replaced is all wrong. In these circumstances, Sir, it is

22nd December 1922] [Mr. B. Muniswami Nayudu]

Clause 15—cont.

but fair that justice should be done to the persons concerned by the issue of notice before taking the extreme step of the Government doing the repairs themselves. This question formed the subject of a resolution in the pre-Reform days, and I am told that Mr. Siva Rao moved this resolution. There will be no chance of influencing the Government while making the rules, and I therefore submit that this amendment may be accepted by the House."

Mr. J. KUPPUSWAMI seconded the amendment.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"I wish to bring one or two important matters for the consideration of the House. In the first place let the House realize that a survey is conducted at an enormous expenditure out of the general tax-payers' money. Elaborate methods are adopted, sketches for each holding are made available, and the stones are fixed for the purpose of determining the boundaries.

4-15 p.m. "Stones are fixed for the purpose of marking the boundaries, and, after everything has been done at the general tax-payers' expense, the law rightly throws the responsibility upon the particular owner failing to maintain intact the results which have been achieved by the survey conducted at the general taxpayers' expense. It is an obligation, therefore, on the landlord, to maintain intact such of the marks as might have been laid on his field to fix the boundaries between his land and his neighbour's land. If he fails to do so, it is a breach of the duty cast on him by law. For every breach of duty cast on an individual by law there is a penalty. The penalty in this case is not a fine or imprisonment; it is restoring what has been destroyed through the negligence of the individual who ought to have taken care of his boundary marks. The Government in such a case do not recover from the party more than the actual cost of the stone that has been replanted or repaired and the cost of labour that might have been utilized for the purpose of re-planting or repairing that particular stone. There is, therefore, no sort of hardship involved in this case. If, on the other hand, the recommendation of the hon. mover is accepted, I ask the House to remember what the consequences will be. I am not sure whether the House knows how many stones have been planted in the Madras Presidency. We have got, what we call, a stone register in which we note down every stone that is planted as a result of the survey conducted in every part of the district. To-day, Sir, according to our survey register, we have got 258,638,000 stones to maintain. Those ryots or landlords on whose fields these stones have been planted do not invariably take that care which is essential for the preservation of these boundary marks, and when they fail to do that, we have to step in; for it should be remembered that any negligence on the part of the individual concerned might merely affect that individual; but if that individual is connived at by the Government and proper steps are not taken by them for the purpose of re-doing what has been once done, the consequence will be that a survey of the whole country will become necessary more often than it is at the present moment. For, if every mark and every boundary stone that has been laid on the ground as a result of a survey is going to be obliterated soon after it has been laid, it will not only be necessary to have a 30 years' survey as we have now in anticipation of resettlement, but it will also probably be necessary to have a quinquennial

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Clause 15—cont.

survey. Is that, I ask, a financial possibility? What is the amount of work that we do at the present moment? From the same register—what we call the stone register—we find that in the last year we had to renew and repair no less than 368,691 stones. Now, does the House realize that if this amendment is accepted, it will become necessary for Government to issue notices in no less than 3 to 4 lakhs of cases every year? And mark, Sir, the notices are expected to be in writing. The quantity of stationery involved, the writing work thereby necessitated, the printing that it will occasion, the amount of extra hands who will be needed to do the writing work in respect of 368,691 notices and probably the amount of postage that would be involved for despatching these notices to registered holders to their last-known addresses, all mean an unthinkable problem. Is it, I ask, the intention of the House that we should face this additional expenditure at this moment? Then it is stated, Sir, that after the abolition of the Land Records Department, which the hon. mover and I in common regret, the duty has now been cast on the ordinary Land Revenue Inspector who from his own standpoint can fudge things as he likes. But I say that even when the Land Records Department was in existence, whose rather unhappy burial we all regret, it was the same Revenue Inspector, and it was the same village headman, who were responsible for what we call the maintenance work; and the fact that the Land Records Department has been abolished, though its duty has now been transferred to the ordinary Land Revenue Department—and this in its turn naturally utilizes the services of the karnam or the monigar—does not alter the situation at all. For, the same element that was working under the old system is also the element now working under the present system. Unless and until, Sir, I am told or at any rate some proof is forthcoming to the effect that these 368,691 stones which are being repaired in the course of one year are all imaginary doings of the village officials, I, for one, cannot accept that assertion. It may be that here and there there may be an act of indiscretion on the part of somebody; but that does not condemn the system as a whole. It condemns the man and his action. If, therefore, I am going to be asked to accept this tall order which is proposed to be issued to me by means of this amendment, that I should serve a notice in writing on the registered holder giving particulars of the survey marks in respect of which default has been committed and call upon him 'to maintain, renew or repair the same within a time to be prescribed in such notice which shall be not less than 15 days from the date of service thereof', if I am asked to carry out this tall order which is contained in this amendment, I fear, Sir, the Council will have to be prepared to give me the necessary sinews of war to enable me to carry on its wishes in this direction; and I cannot, at the present moment, tell the House what exactly will be the total expenditure involved. For I have had no opportunity of working out accurately what additional establishment will be necessary in each village for doing this work. If the House passes this amendment I shall work out the whole thing and incorporate it in the next budget."

SAIYID MUHAMMAD PADSHA SAHIB Bahadur:—"Mr. President, Sir, I beg to oppose this amendment. I am sorry that I have to do so; because my opposition is based not on any consideration of the actual issues involved in this amendment but merely on a technical point. I submit, Sir, that the

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Clause 15.—cont.

House will not do justice to itself if it carries the amendment. After all the various amendments on this clause were discussed, deliberated upon and disposed of by this House, all that labour was lost by the decision of the House to allow the original clause, as drafted by the Select Committee, to stand in the Bill. So, Sir, in my view, if this amendment is accepted, it will be showing a preferential treatment to it, while all the others have been swept away by the previous decision of the House. If we allow this amendment to go forward, we have also to take into consideration all the various amendments which have been already disposed of and there will thus be no end. On these grounds, I oppose the amendment now before the House."

Amendment No. 41 was put to vote and lost.

4-30 p.m.

Rao Bahadur K. Gopalakrishnayya demanded a poll and the House divided as follows:—

Ayes.

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| 1. Rao Bahadur T. A. Ramalinga Chettiyar. | 14. Mr. K. Sarabha Reddi. |
| 2. Mr. K. Adinarayana Reddi. | 15. Mr. W. P. A. Soundarapandia Nadar. |
| 3. Rao Bahadur V. Appaswami Vandayar. | 16. Mr. K. Sitarama Reddi. |
| 4. Diwan Bahadur C. Arunachala Mudaliyar. | 17. Dr. P. Subbarayan. |
| 5. Rao Sahib S. Ellappa Chettiyar. | 18. Rao Bahadur A. S. Krishna Rao Pantulu. |
| 6. Diwan Bahadur Sir P. Tyagaraya Chettiyar. | 19. Mr. C. V. Venkataramana Ayyangar. |
| 7. Mr. O. Tanikachala Chettiyar. | 20. Rao Bahadur C. V. S. Narasimha Raju. |
| 8. Mr. W. Vijayaraghava Mudaliyar. | 21. Mr. A. Ranganatha Mudaliyar. |
| 9. Rao Bahadur K. Gopalakrishnayya. | 22. Mr. R. Srinivasa Ayyangar. |
| 10. Mr. B. Muniswami Nayudu. | 23. Mr. M. Soryanarayana. |
| 11. Mr. A. T. Muttukumaraswami Chettiyar. | 24. Mr. S. Arpudawami Udayar. |
| 12. Rao Bahadur C. Natesa Mudaliyar. | 25. Mr. K. Prabhakaran Tampian. |
| 13. Mr. V. P. Pakkiriswami Pillai. | 26. Khan Bahadur Muhammad Usman Sahib Bahadur. |

Noes.

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| 1. The hon. Sir Charles Todhunter. | 15. Diwan Bahadur T. N. Sivagnanam Pillai. |
| 2. " Khan Bahadur Sir Muhammad Habib-ul-Jah Sahib Bahadur. | 16. Mr. S. Somasundaram Pillai. |
| 3. " Mr. K. Srinivasa Ayyangar. | 17. Diwan Bahadur K. Suryanarayanamurti Nayudu. |
| 4. " the Raja of Panagal. | 18. Mr. S. Muttumanikkachari. |
| 5. " Rai Bahadur K. Venkatoreddi Nayudu. | 19. Diwan Bahadur D. Seshagiri Rao Pantulu. |
| 6. " Rao Bahadur A. P. Patro. | 20. Rev. W. Meston. |
| 7. " Mr. A. R. Knapp. | 21. Saiyid Muhammad Padsha Sahib. |
| 8. Mr. F. J. Richards. | 22. Khan Sahib Muhammad Abdur Rahim Khan Sahib. |
| 9. Mr. R. G. Grieve. | 23. Khan Bahadur Muhammad Sadulla Badsha Sahib. |
| 10. Mr. E. Periyamayagam. | 24. Khan Sahib Munshi Muhammad Abdur Rahman Sahib. |
| 11. Mr. T. C. Tangavelu Pillai. | 25. Rao Bahadur M. C. Raja. |
| 12. Mr. A. Ramaswami Mudaliyar. | 26. Mr. L. C. Guruswami. |
| 13. S. R. Y. Ankinedu Prasad Bahadur. | |
| 14. Mr. M. Appalanarasayya Nayudu. | |

The Deputy President (*from the Chair*) gave his casting vote for the amendment, and the amendment was *carried*.

Then clause 15 as amended was put, passed and added to the Bill.

Clause 21.

Amendment 62.

Mr. B. MUNISWAMI NAYUDU :—" I move, Sir,

62. *After the words 'the collector may' in line 43, insert the following:—*
'after giving notice to the tenant or proprietor in the manner provided in sub-sections (2) and (3) of section 15.'

[Mr. B. Muniswami Nayudu] [22nd December 1922]

Clause 21—cont.

“Sir, this amendment covers cases of proprietary estates also. I do not know how the proprietors can be compelled to pay the cost of survey without previous notice being given to them. This amendment attempts to give the proprietor and the tenant the same protection which the amendment now carried with your (Deputy President's) casting vote does. It is therefore necessary that before the survey officer comes and demands the charge, due notice should be given. With these words, I move the amendment.”

Mr. J. KUPPUSWAMI seconded the amendment.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—“I oppose the amendment. I have nothing further to add to what I have already stated. If the proprietors are prepared to shoulder the additional cost, I have no objection.”

The amendment was put and carried.

Clause 21 as amended was put, passed and added to the Bill.

The Preamble.

• The Preamble was then put and carried and added to the Bill.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—“Sir, in view of the fact that a large number of amendments have been accepted by this House, and with a view to examine once more whether any further consequential amendments will be necessary, I do not move at this meeting that the Bill be passed into law, but I move that it be adjourned to 29th January 1923.”

The hon. the RAJA of PANAGAL seconded it.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“This is exactly the course which has been suggested to my hon. friend two hours ago. It is now open to my hon. friend, the Revenue Member, and my other friends to bring in any amendments at the next meeting.”

The motion for adjournment to 29th January was put and carried.

The House then adjourned to meet again at 11 a.m. on the 29th January 1923.

L. D. SWAMIKANNU,
Secretary to the Legislative Council.